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House of Representatives

SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

(Continued)

H.R. 2517

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Seven-Year Balanced Budget Reconciliation Act of 1995''.

SEC. 2. TABLE OF TITLES.

This Act is organized into titles as follows:

TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Agricultural Reconciliation Act of 1995''.

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

Subtitle A—Freedom to Farm

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the ''Freedom to Farm Act of 1995''.

SEC. 1102. SEVEN-YEAR CONTRACTS TO IMPROVE FARMING CERTAINTY AND FLEXIBILITY.

(a) CONTRACTS AUTHORIZED.—Section 102 of the Agricultural Act of 1949 (7 U.S.C. 1443), which is obsolete, is amended to read as follows:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"SEC. 102. SEVEN-YEAR MARKET TRANSITION CONTRACTS.

''(a) CONTRACTS AUTHORIZED.—

''(1) OFFER AND MAIN TERMS.—Beginning as soon as possible after the date of the enactment of this section, the Secretary shall offer to enter into a contract (to be known as a 'market transition contract') with eligible owners and operators described in paragraph (2) on a farm containing eligible farmland. Under the terms of a market transition contract, the owner or operator shall agree, in exchange for annual payments under the contract, to comply with the conservation compliance plan for the farm prepared in accordance with section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) and wetland protection requirements applicable to the farm under subtitle C of title XII of such Act (16 U.S.C. 3821 et seq.).

''(2) ELIGIBLE OWNERS AND OPERATORS DESCRIBED.—The following persons shall be considered to be an owner or operator eligible to enter into a market transition contract:

''(A) An owner of eligible farmland who assumes all of the risk of producing a crop.

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

''(C) An operator of eligible farmland with a share-rent lease of the eligible farmland, regardless of the length of the lease, if the owner enters into the same market transition contract.

''(D) An operator of eligible farmland who cash rents the eligible farmland under a lease expiring on or after September 30, 2002, in which case the consent of the owner is not required.

''(E) An operator of eligible farmland who cash rents the eligible farmland under a lease expiring before September 30, 2002, if the owner consents to the contract.

''(F) An owner of eligible farmland who cash rents the eligible farmland and the lease term expires before September 30, 2002, but only if the actual operator of the farm declines to enter into a market transition contract. In the case of an owner covered by this subparagraph, payments will not begin under a market transition contract until the fiscal year following the fiscal year in which the lease held by the nonparticipating operator expires.

''(3) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of operators who are tenants and sharecroppers.

''(b) ELEMENTS OF CONTRACTING.—

''(1) TIME FOR CONTRACTING.—

''(A) DEADLINE.—Except as provided in subparagraph (B), the Secretary may not enter into a market transition contract after April 15, 1996.

''(B) SPECIAL RULE FOR CONSERVATION RESERVE LANDS.—Eligible owners and operators on farms covered by a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) that expires after April 15, 1996, may enter into or expand a market transition contract to cover the acreage equal to the quantity of the farm's crop acreage bases restored with respect to the farm under the terms and conditions of the conservation reserve program. The Secretary shall annually conduct an enrollment for such conservation reserve program acreage for the fiscal years 1997 through 2002.

''(2) DURATION OF CONTRACT.—The term of each market transition contract shall—

''(A) begin with the 1996 crop year, or the crop year in which the contract is entered into in the case of a contract entered into after April 15, 1996; and

''(B) extend through the 2002 crop year.

''(3) ESTIMATION OF PAYMENTS.—At the time the Secretary enters into a market transition contract, the Secretary shall provide an estimate of the minimum payments anticipated to be made under the contract during at least the first fiscal year for which payments will be made. If the actual payment under the contract for the first fiscal year is less than 95 percent of the estimated payment, the owner or operator subject to the contract may terminate the contract without penalty.

''(4) REPORT ON CONTRACTING.—Not later than 90 days after the date of the enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the manner in which the Secretary proposes to enter into market transition contracts, the number of persons and acreage covered by such contracts, and the total amount of anticipated payments to be made under such contracts (consistent with the limitations specified in subsection (e)).

''(c) ELIGIBLE FARMLAND DESCRIBED.—Land shall be considered to be farmland eligible for coverage under a market transition contract only if the land has crop acreage base attributable to the land and—

''(1) for at least one of the 1991 through 1995 crop years, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of rice, upland cotton, feed grains, or wheat under section 101B, 103B, 105B, or 107B or was considered planted to rice, upland cotton, feed grains, or wheat, as certified under section 503(c)(7);

''(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired on or after January 1, 1995; or

''(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on April 15, 1996.

''(d) TIME FOR PAYMENT.—

''(1) IN GENERAL.—An annual payment under a market transition contract shall be made not later than September 30 of each of the fiscal years 1996 through 2002.

''(2) ADVANCE PAYMENTS.—Beginning in fiscal year 1997, half of the annual payment may be made on March 15 at the option of the owner or operator subject to the contract. At the option of the owner or operator, half of the annual payment for fiscal year 1996 may be made within 90 days of the date on which the owner or operator enters into the market transition contract.

''(e) TOTAL AMOUNTS AVAILABLE FOR PAYMENTS UNDER ALL CONTRACTS.—

''(1) TOTAL PAYMENTS.—Total payments under all market transition contracts for fiscal years 1996 through 2002 shall not exceed $38,733,000,000.

''(2) TOTAL PAYMENTS PER FISCAL YEAR.—Beginning in fiscal year 1996, the Secretary shall expend on a fiscal year basis the following amounts to satisfy the obligations of the Secretary under market transition contracts:

''(A) For fiscal year 1996, $6,014,000,000.

''(B) For fiscal year 1997, $5,829,000,000.

''(C) For fiscal year 1998, $6,244,000,000.

''(D) For fiscal year 1999, $6,047,000,000.

''(E) For fiscal year 2000, $5,573,000,000.

''(F) For fiscal year 2001, $4,574,000,000.

''(G) For fiscal year 2002, $4,453,000,000.

''(3) ADJUSTMENT OF PAYMENT AMOUNTS.—The Secretary shall adjust the amount specified in paragraph (1), and the amount specified in paragraph (2) for a particular fiscal year, as follows:

''(A) Subtracting an amount equal to the amount, if any, necessary during that fiscal year to satisfy payment requirements under sections 101B, 103B, 105B, and 107B for the 1994 and 1995 crop years.

''(B) Adding an amount equal to the sum of all producer repayments of deficiency payments received during that fiscal year under section 114(a)(2).

''(C) Adding an amount equal to the sum of all market transition contract payments withheld by the Secretary, at the request of producers, during the preceding fiscal year as an offset against producer repayments of deficiency payments otherwise required under section 114(a)(2).

''(D) Adding an amount equal to the sum of all refunds of market transition contract payments received during the preceding fiscal year under subsection (i).

''(f) CONTRACT PAYMENTS TO BE BASED ON HISTORIC EXPENDITURE LEVELS.—

''(1) CONTRACT COMMODITY DEFINED.—For purposes of this section, the term 'contract commodity' means rice, upland cotton, feed grains, or wheat.

''(2) CALCULATION OF HISTORIC EXPENDITURE LEVELS.—

''(A) IN GENERAL.—For each contract commodity, the Secretary shall calculate the total expenditures that were required for the 1991 through 1995 crops of that contract commodity under section 101B, 103B, 105B, or 107B, including expenditures in the form of deficiency payments, loan deficiency payments, gains realized from repaying loans at a level less than the original level, and marketing certificates.

''(B) SPECIAL RULE FOR 1995 CROP YEAR.—In the absence of information regarding actual expenditures for the 1995 crop of each contract commodity, the Secretary may use an estimate of expenditures under section 101B, 103B, 105B, or 107B for that crop year. The Secretary shall base such estimate on information contained in the President's budget for fiscal year 1997 submitted to the Congress under section 1105 of title 31, United States Code.

''(3) AMOUNTS AVAILABLE FOR EACH CONTRACT COMMODITY.—The amount available for a fiscal year for payments with respect to crop acreage base of a contract commodity included in market transition contracts in effect during that fiscal year shall be equal to the product of—

''(A) the ratio of the amount calculated under paragraph (2) for that contract commodity to the total amount calculated for all contract commodities under such paragraph; and

''(B) the amount specified in paragraph (2) of subsection (e) for that fiscal year, as adjusted under paragraph (3) of such subsection.

''(g) DETERMINATION OF PAYMENTS UNDER PARTICULAR CONTRACT.—

''(1) INDIVIDUAL PRODUCTION OF CONTRACT COMMODITIES.—For each market transition contract, the amount of production of a contract commodity covered by the contract shall be equal to the product of—

''(A) the crop acreage base of that contract commodity attributable to the eligible farmland subject to the contract; and

''(B) the farm program payment yield in effect for the 1995 crop of that contract commodity for the farm containing that eligible farmland.

''(2) ANNUAL TOTAL PRODUCTION OF CONTRACT COMMODITIES.—For each of the fiscal years 1996 through 2002, the total production of each contract commodity covered by all market transition contracts shall be equal to the sum of the amounts calculated under paragraph (1) for each individual market transition contract in effect during that fiscal year.

''(3) ANNUAL PAYMENT RATE.—The payment rate for a contract commodity for a fiscal year shall be equal to—

''(A) the amount made available under subsection (f)(3) for that contract commodity for that fiscal year; divided by

''(B) the amount determined under paragraph (2) for that fiscal year.

''(4) ANNUAL PAYMENT AMOUNT.—For each of the fiscal years 1996 through 2002, the amount to be paid under a particular market transition contract in effect during that fiscal year with respect to a contract commodity shall be equal to the product of—

''(A) the amount of production determined under paragraph (1) for that contract for that contract commodity; and

''(B) the payment rate in effect under paragraph (3) for that fiscal year for that contract commodity.

''(5) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this subsection. The owner or operator making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the market transition contract, of any assignment made under this paragraph.

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

''(h) LIMITATION ON TOTAL AMOUNT OF PAYMENT.—The total amount of payments made to a person under a market transition contract during any fiscal year may not exceed $50,000. The Secretary shall issue regulations defining the term 'person' as used in this section, which shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308). In the case of payments under a market transition contract provided to corporations and other persons described in paragraph (5)(B)(i)(II) of such section, the Secretary shall comply with the attribution requirements specified in paragraph (5)(C) of such section.

''(i) EFFECT OF VIOLATION.—

''(1) TERMINATION OF CONTRACT.—If an owner or operator subject to a market transition contract violates the conservation compliance plan for the farm containing eligible farmland under the contract or wetland protection requirements applicable to the farm, the Secretary may terminate the market transition contract with respect to that owner or operator. Upon such termination, the owner or operator shall forfeit all rights to receive future payments under the contract and shall refund to the Secretary all payments under the contract received by the owner or operator during the period of the violation, together with interest thereon as determined by the Secretary.

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

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

''(B) to accept an adjustment in the amount of future payments otherwise required under the contract.

''(3) FORECLOSURE.—An owner or operator subject to a market transition contract may not be required to make repayments to the Secretary of amounts received under the contract if the eligible farm land that is subject to the contract has been foreclosed upon and the Secretary determines that forgiving such repayments is appropriate in order to provide fair and equitable treatment. This paragraph shall not void the responsibilities of such an owner or operator under the contract if the owner or operator continues or resumes operation, or control, of the property that is subject to the contract. Upon the resumption of operation or control over the property by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

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

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

''(1) EFFECT OF TRANSFER.—Except as provided in paragraph (2), the transfer by an owner or operator subject to a market transition contract of the right and interest of the owner or operator in the eligible farmland under the contract shall result in the termination of the contract with respect to that farmland, effective on the date of the transfer, unless the transferee of the land agrees with the Secretary to assume all obligations of the contract. At the request of the transferee, the Secretary may modify the contract if the modifications are consistent with the objectives of this section as determined by the Secretary.

''(2) EXCEPTION.—If an owner or operator who is entitled to a payment under a market transition contract dies, becomes incompetent, or is otherwise unable to receive such payment, the Secretary shall make such payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

''(k) PLANTING FLEXIBILITY.—

''(1) PERMITTED CROPS.—In the case of acreage on a farm that serves as the basis for payments under a market transition contract, an owner or operator on the farm may plant for harvest on the acreage—

''(A) rice, upland cotton, feed grains, and wheat;

''(B) any oilseed;

''(C) any industrial or experimental crop designated by the Secretary;

''(D) mung beans, lentils, and dry peas; and

''(E) any other crop, except any fruit or vegetable crop (including potatoes and dry edible beans) not covered by subparagraph (D), unless such fruit or vegetable crop is designated by the Secretary as—

''(i) an industrial or experimental crop; or

''(ii) a crop for which no substantial domestic production or market exists.

''(2) LIMITATION.—At the discretion of the Secretary, the Secretary may prohibit the planting of any crop specified in paragraph (1) on acreage on a farm that serves as the basis for payments under a market transition contract.

''(3) NOTIFICATION.—With regard to commodities that may be planted pursuant to this subsection, the Secretary shall make a determination in each crop year of the commodities that may not be planted pursuant to this subsection and shall make available a list of the commodities.

''(4) CONSERVATION USES.—In lieu of planting any crop specified in paragraph (1), the owner or operator on a farm may devote to conservation uses all or part of the eligible farmland subject to a market transition contract, in accordance with regulations issued by the Secretary.

''(5) HAYING AND GRAZING.—Haying and grazing of eligible farmland subject to a market transition contract shall be permitted, except during any consecutive five-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the eligible farmland. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising the authority under the preceding sentence.

''(l) MARKET TRANSITION CONTRACTS.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any market transition contract.

''(m) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out this section through the Commodity Credit Corporation, except that no funds of the Corporation shall be used for any salary or expense of any officer or employee of the Department of Agriculture in connection with the administration of market transition payments or loans under this Act.

''(n) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.''.

(b) CONFORMING AMENDMENTS.—

(1) WHEAT 0/85 PROGRAM.—Section 107B(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(c)(1)(E)) is amended by striking ''through 1997'' in clauses (i) and (vii) each place it appears and inserting ''and 1995''.

(2) FEED GRAINS 0/85 PROGRAM.—Section 105B(c)(1)(E) of such Act (7 U.S.C. 1444f(c)(1)(E)) is amended by striking ''through 1997'' in clauses (i) and (vii) each place it appears and inserting ''and 1995''.

(3) COTTON PROGRAM.—Section 103B of such Act (7 U.S.C. 1444–2) is amended—

(A) in the section heading, by striking ''**1997**'' and inserting ''**1995**'';

(B) in subsections (a)(1), (b)(1), (c)(1)(A), (c)(1)(B)(ii), and (o), by striking ''1997'' each place it appears and inserting ''1995'';

(C) in subsections (c)(1)(D)(i) and (c)(1)(D)(v)(II) by striking ''through 1997'' each place it appears and inserting ''and 1995'';

(D) in the heading of subsection (c)(1)(D)(v)(II), by striking ''THROUGH 1997 CROPS'' and inserting ''AND 1995 CROPS'';

(E) in subsection (e)(1)(D), by striking ''29½ percent for each of the 1995 and 1996 crops, and 29 percent for the 1997 crop'' and inserting ''and 29½ percent for the 1995 crop''; and

(F) in subparagraphs (B)(i), (D)(i), (E)(i), and (F)(i) of subsection (a)(5), by striking ''1998'' each place it appears and inserting ''1996''.

(4) RICE 50/85 PROGRAM.—Section 101B of such Act (7 U.S.C. 1441–2) is amended—

(A) in subsections (c)(1)(D)(i) and (c)(1)(D)(v)(II), by striking ''through 1997'' each place it appears and inserting ''and 1995''; and

(B) in the heading of subsection (c)(1)(D)(v)(II), by striking ''THROUGH 1997 CROPS'' and inserting ''AND 1995 CROPS''.

(5) OILSEEDS.—Section 205(c) of such Act (7 U.S.C. 1446f(c)) is amended by striking ''through 1997'' both places it appears and inserting ''and 1995''.

(6) CROP ACREAGE BASE.—Section 509 of such Act (7 U.S.C. 1469) is amended by striking ''effective only for the 1991 through 1997

program crops'' and inserting ''effective only until January 1, 1996''.

SEC. 1103. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR WHEAT, FEED GRAINS, COTTON, RICE, AND OILSEEDS.

(a) NONRECOURSE LOANS AVAILABLE.—The Agricultural Act of 1949 is amended by inserting after section 102, as amended by section 1102, the following new section:

''SEC. 102A. NONRECOURSE MARKETING ASSISTANCE LOANS FOR CERTAIN CROPS.

''(a) NONRECOURSE LOANS AVAILABLE.—For each of the 1996 through 2002 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, and oilseeds, the Secretary shall make available to eligible producers on a farm nonrecourse marketing assistance loans under terms and conditions that are prescribed by the Secretary and at a loan rate calculated under subsection (c). A marketing assistance loan shall have a term of nine months beginning on the first day of the first month after the month in which the loan is made. The Secretary may not extend the term of a marketing assistance loan.

''(b) ANNOUNCEMENT OF LOAN RATE.—The Secretary shall announce the loan rate for each commodity specified in subsection (a) not later than the start of the marketing year of the commodity for which the loan rate is to be in effect.

''(c) CALCULATION OF LOAN RATE.—

''(1) CALCULATION.—Subject to adjustment under paragraph (2), the loan rate for marketing assistance loans under subsection (a) for a particular commodity specified in such subsection shall be equal to 70 percent of the simple average price received by producers of that commodity during the marketing years for the immediately preceding five crops of that commodity.

''(2) REQUIRED BUDGETARY ADJUSTMENTS.—If the Secretary estimates for one of the marketing years for the 1996 through 2002 crops of a particular commodity specified in subsection (a) that the average price to be received by producers of that commodity is likely to be less that the loan rate calculated under paragraph (1) for that marketing year, the Secretary shall reduce the loan rate for that commodity for that marketing year by an amount sufficient to enable the Secretary to provide marketing assistance loans at no net cost to the Federal Government by preventing the accumulation of that commodity by the Commodity Credit Corporation through loan forfeitures and by limiting producer gains under the marketing loan provision under subsection (d).

''(3) SIMPLE AVERAGE PRICE.—The Secretary shall be responsible for determining the simple average price received by producers of a commodity specified in subsection (a). In determining the simple average price a commodity for a five-year period, the Secretary shall exclude the year in which the average price was the highest and the year in which the average price was the lowest during the period.

''(d) MARKETING LOAN PROVISION.—If during the marketing year, the Secretary determines that the market price of a commodity subject to a marketing assistance loan under this section falls below the lower of (1) the loan rate, or (2) the loan rate as adjusted by subsection (c)(2), the Secretary shall allow such loan to be repaid at such market price. This subsection shall not apply in the case of marketing assistance loans for extra long staple cotton, rye, or oilseeds.

''(e) ADJUSTMENTS FOR GRADE, TYPE, QUALITY, LOCATION, AND OTHER FACTORS.—The Secretary may make such adjustments in the announced loan rate for a commodity specified in subsection (a) as the Secretary considers appropriate to reflect differences in grade, type, quality, location, and other factors.

''(f) PRODUCERS ELIGIBLE FOR LOANS.—Only the following producers shall be eligible for a marketing assistance loan under this section:

''(1) In the case of a marketing assistance loan for a crop of wheat, feed grains (other than rye), upland cotton, or rice, a producer whose land on which the crop is raised is subject to a market transition contract under section 102.

''(2) In the case of a marketing assistance loan for a crop of extra long staple cotton, rye, or oilseeds, any producer.

''(g) PROHIBITION ON STORAGE PAYMENTS.—The Secretary may not make payments to producers to cover storage charges incurred in connection with marketing assistance loans made under this section.

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

''(1) The term 'feed grains' means corn, grain sorghums, barley, oats, and rye.

''(2) The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, and, if designated by the Secretary, other oilseeds.

''(i) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.''.

(b) REPEAL OF CURRENT ADJUSTMENT AUTHORITY.—Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) is repealed.

SEC. 1104. REFORM OF PAYMENT LIMITATION PROVISIONS OF FOOD SECURITY ACT OF 1985.

(a) ATTRIBUTION OF PAYMENTS MADE TO CORPORATIONS AND OTHER ENTITIES.—Paragraph (5)(C) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended to read as follows:

''(C)(i) In the case of payments to corporations and other entities described in subparagraph (B)(i)(II), the Secretary shall attribute payments to individuals in proportion to their ownership interests in the corporation or entity receiving the payment or in any other corporation or entity that has a substantial beneficial interest in the corporation or entity actually receiving the payment. This subparagraph shall apply to individuals who hold or acquire, directly or through another corporation or entity, a substantial beneficial interest in the corporation or entity actually receiving the payment.

''(ii) In the case of payments to corporations and other entities described in subparagraph (B)(i)(II), the Secretary shall also attribute payments to any State (or political subdivision or agency thereof) or other corporation or entity that has a substantial beneficial interest in the corporation or entity actually receiving the payment in proportion to their ownership interests in the corporation or entity receiving the payment. This subparagraph shall apply even if the payments are also attributable to individuals under clause (i).

''(iii) For purposes of this subparagraph, the term 'substantial beneficial interest' means not less than five percent of all beneficial interests in the corporation or entity actually receiving the payment, except that the Secretary may set a lower percentage in order to ensure that the provisions of this section and the scheme or device provisions in section 1001B are not circumvented.''.

(b) TRACKING OF PAYMENTS.—Paragraph (3) of section 1001A(a) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)) is amended to read as follows:

''(3) NOTIFICATION.—To facilitate administration of this section, each entity or individual receiving payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the requirements and limitations under this subsection. Each such entity or individual receiving payments shall provide to the Secretary, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest.''.

(c) CONFORMING AMENDMENT.—Paragraph (2) of such section is amended to read as follows:

''(2) SUBSTANTIAL BENEFICIAL INTEREST.—For purposes of this subsection, the term 'substantial beneficial interest' has the meaning given such term in section 1001(5)(C)(iii).''.

SEC. 1105. SUSPENSION OF CERTAIN PROVISIONS REGARDING PROGRAM CROPS.

(a) WHEAT.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1996, through May 31, 2003.

(2) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(3) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled ''A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended'', approved May 26, 1941 (7 U.S.C. 1330 and 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(4) NONAPPLICABILITY OF SECTION 107 PROGRAM.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

(b) FEED GRAINS.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

(c) COTTON.—

(1) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(2) NONAPPLICABILITY OF SECTION 103 PROGRAM.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops of upland cotton.

Subtitle B—Dairy

CHAPTER 1—AUTHORIZATION OF MARKET TRANSITION PAYMENTS IN LIEU OF MILK PRICE SUPPORT PROGRAM

SEC. 1201. SEVEN-YEAR MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS.

(a) CONTRACTS AUTHORIZED.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended to read as follows:

''SEC. 204. SEVEN-YEAR MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS AND RELATED PROVISIONS.

''(a) MARKET TRANSITION CONTRACTS AUTHORIZED.—

''(1) OFFER AND MAIN TERMS.—The Secretary shall offer to enter into a contract (to be known as a 'market transition contract') with willing milk producers, under which the milk producers agree, in exchange for seven payments under the contract, to comply with—

''(A) governmental animal waste management regulations otherwise applicable to the milk producer; and

''(B) any wetland protection requirements applicable to the farm under subtitle C of title XII of such Act (16 U.S.C. 3821 et seq.).

''(2) MILK PRODUCER DEFINED.—For purposes of this section, the term 'milk producer' means a person that was engaged in the production of cow's milk in the 48 contiguous States on September 15, 1995, and that received a payment during the 45-day period before that date for cow's milk marketed for commercial use. Such term includes a person considered to be a producer-handler that satisfies the requirements of the preceding sentence.

''(b) TIME FOR CONTRACTING; DURATION.—The Secretary shall begin to offer to enter into market transition contracts as soon as possible after the date of the enactment of this section. The Secretary may not enter into a market transition contract after April 15, 1996. The term of each market transition contract shall extend through December 31, 2001.

''(c) ESTIMATION OF PAYMENTS.—At the time the Secretary enters into a market transition contract, the Secretary shall provide an estimate of the payments anticipated to be made under the contract for at least fiscal year 1996.

''(d) TIME FOR PAYMENT.—The fiscal year 1996 payment under a market transition contract shall be made on April 15, 1996, or as soon thereafter as practicable. The Secretary shall make subsequent payments not later than October 15 of each of the fiscal years 1997 through 2002.

''(e) PAYMENT RATE.—The Secretary shall use the following payment rates to calculate payments under a market transition contract for a fiscal year:

''(1) For fiscal year 1996, 10 cents per hundredweight.

''(2) For fiscal year 1997, 15 cents per hundredweight.

''(3) For fiscal year 1998, 13 cents per hundredweight.

''(4) For fiscal year 1999, 11 cents per hundredweight.

''(5) For fiscal year 2000, 9 cents per hundredweight.

''(6) For fiscal year 2001, 7 cents per hundredweight.

''(7) For fiscal year 2002, 5 cents per hundredweight.

''(f) CONTRACT PAYMENTS TO BE BASED ON PRODUCTION HISTORY.—

''(1) IN GENERAL.—The Secretary shall determine the historic annual milk production for each milk producer that enters into a market transition contract on the basis of milk checks reflecting payments for commercial marketings of cow's milk or such other records of commercial marketings or product sales as may be acceptable to the Secretary. Each milk producer's historic annual milk production shall be expressed in terms of hundredweights of milk.

''(2) PRODUCERS WITH THREE OR MORE YEARS OF PRODUCTION.—In the case of a milk producer that has been engaged in the production of milk for at least three of the calendar years 1991 through 1995, the milk producer's historic annual milk production shall be equal to the average quantity of milk marketed by the milk producer during the three years of such period in which the largest quantities of milk were marketed by the milk producer.

''(3) PRODUCERS WITH FEWER YEARS OF PRODUCTION.—In the case of a milk producer not covered by paragraph (2), the Secretary shall assign the milk producer an historic annual milk production equal to an annualized average of the monthly quantity of milk marketed by the milk producer during the period in which the milk producer has been engaged in milk production. The Secretary shall not consider months of production after December 31, 1995.

''(g) CALCULATION OF PAYMENT AMOUNT.—The total amount to be paid to a milk producer under a market transition contract for a fiscal year shall be equal to the product of—

''(1) the payment rate in effect for that fiscal year under subsection (e); and

''(2) the historic annual milk production for the milk producer determined under subsection (f).

''(h) ASSIGNMENT OF PAYMENTS.—The right of a milk producer to a payment under a market transition contract shall be freely assignable by the milk producer. The milk producer or assignee shall provide the Secretary with notice, in such manner as the Secretary may require in the market transition contract, of any assignment made under this subsection.

''(i) EFFECT OF VIOLATION.—

''(1) TERMINATION OF CONTRACT.—If a milk producer subject to a market transition contract violates any governmental animal waste management regulation that applies to the producer or wetland protection requirements applicable to the producer, the Secretary may terminate the producer's market transition contract. Upon such termination, the milk producer shall forfeit all rights to receive future payments under the contract and shall refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest thereon as determined by the Secretary. The Secretary shall make a determination regarding violations of animal waste management regulations under this paragraph in consultation with the appropriate State governmental authority.

''(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation of a market transition contract does not warrant termination of the contract under paragraph (1), the Secretary may require the milk producer subject to the contract—

''(A) to refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest thereon as determined by the Secretary; or

''(B) to accept an adjustment in the amount of future payments otherwise required under the contract.

''(j) MARKET TRANSITION CONTRACTS.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any market transition contract.''.

(b) CONTINUED OPERATION OF EXISTING PROGRAM THROUGH 1995.—

(1) PRICE SUPPORT OPERATIONS.—Until December 31, 1995, the Secretary of Agriculture shall continue to use section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e), as in effect on the day before the date of the enactment of this Act, to support the price of milk produced in the 48 contiguous States.

(2) PRICE REDUCTION.—Subsection (h) of such section, relating to a reduction in the price received by milk producers for all milk produced in the 48 contiguous States and marketed for commercial use, shall continue to apply with respect to milk marketed through December 31, 1995. In the case of milk producers that did not increase milk marketings in 1995 when compared to 1994 milk marketings, the Secretary of Agriculture shall make refunds available in 1996 to such milk producers in the manner provided in paragraph (3) of such subsection.

(c) CONFORMING REPEAL OF GENERAL AUTHORITY TO PROVIDE PRICE SUPPORT FOR MILK.—

(1) DESIGNATED NONBASIC AGRICULTURAL COMMODITY.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking ''milk,''.

(2) OTHER NONBASIC AGRICULTURAL COMMODITIES.—Section 301 of the Agricultural Act of 1949 (7 U.S.C. 1447) is amended by inserting ''(other than milk)'' after ''title II''.

SEC. 1202. RECOURSE LOANS FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS.

The Agricultural Act of 1949 is amended by striking section 424 (7 U.S.C. 1433c), as added by section 1003 of the Food Security Act of 1985 and effective for 1986 through 1990 crops, and inserting the following new section:

''SEC. 424. RECOURSE LOANS FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS.

''(a) RECOURSE LOANS AVAILABLE.—On and after January 1, 1996, the Secretary may make recourse loans available to commercial processors of eligible dairy products to assist such processors to manage inventories of eligible dairy products to assure a greater degree of price stability for the dairy industry during the year. Recourse loans may be made available under such reasonable terms and conditions as the Secretary may prescribe.

''(b) AMOUNT OF LOAN.—The Secretary shall establish the amount of a loan for eligible dairy products, which shall reflect 90 percent of the reference price for that product. The rate of interest charged participants in this program shall not be less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury.

''(c) PERIOD OF LOANS.—A recourse loan made under this section may not extend beyond the end of the fiscal year during which the loan is made, except that the Secretary may extend the loan for an additional period not to exceed the end of the next fiscal year.

''(d) DEFINITIONS.—For purposes of this section:

''(1) The term 'eligible dairy products' means cheddar cheese, butter, and nonfat dry milk.

''(2) The term 'reference price' means—

''(A) for cheddar cheese, the average National Cheese Exchange price for 40 pound blocks of cheddar cheese for the previous three months;

''(B) for butter the average Chicago Mercantile Exchange price for butter for the previous three months; and

''(C) for nonfat dry milk, the Western States price for nonfat dry milk for the previous three months.''.

CHAPTER 2—DAIRY EXPORT PROGRAMS

SEC. 1211. DAIRY EXPORT INCENTIVE PROGRAM.

(a) IN GENERAL.—Section 153(c) of the Food Security Act of 1985 (15 U.S.C. 713a–14(c)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

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

''(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States as a member of the World Trade Organization are exported under the program each year (minus the volume sold under section 1163 of the Food Security Act of 1985 (7 U.S.C. 1731 note) during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value set forth in subsection (f); and

''(4) payments may be made under the program for exports to any destination in the world for the purpose of market development, except a destination in a country with

respect to which shipments from the United States are otherwise restricted by law.''.

(b) SOLE DISCRETION.—Section 153(b) of the Food Security Act of 1985 (15 U.S.C. 713a–14(b)) is amended by inserting ''sole'' before ''discretion''.

(c) MARKET DEVELOPMENT.—Section 153(e)(1) of the Food Security Act of 1985 (15 U.S.C. 713a–14(e)(1)) is amended—

(1) by striking ''and'' and inserting ''the''; and

(2) by inserting before the period the following: '', and any additional amount that may be required to assist in the development of world markets for United States dairy products''.

(d) MAXIMUM ALLOWABLE AMOUNTS.—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended by adding at the end the following:

''(f) REQUIRED FUNDING.—The Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States as a member of the World Trade Organization, minus the amount expended under section 1163 of the Food Security Act of 1985 (7 U.S.C. 1731 note) during that year. However, the Commodity Credit Corporation may not exceed the limitations specified in subsection (c)(3) on the volume of allowable dairy product exports.''.

(e) CONFORMING AMENDMENT.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)) is amended by striking ''2001'' and inserting ''2002''.

SEC. 1212. AUTHORITY TO ASSIST IN ESTABLISHMENT AND MAINTENANCE OF EXPORT TRADING COMPANY.

The Secretary of Agriculture shall, consistent with the obligations of the United States as a member of the World Trade Organization, provide such advice and assistance to the United States dairy industry as may be necessary to enable that industry to establish and maintain an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for and exportation of dairy products produced in the United States.

SEC. 1213. STANDBY AUTHORITY TO INDICATE ENTITY BEST SUITED TO PROVIDE INTERNATIONAL MARKET DEVELOPMENT AND EXPORT SERVICES.

(a) INDICATION OF ENTITY BEST SUITED TO ASSIST INTERNATIONAL MARKET DEVELOPMENT FOR AND EXPORT OF UNITED STATES DAIRY PRODUCTS.—If—

(1) the United States dairy industry has not established an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for and exportation of dairy products produced in the United States on or before June 30, 1996; or

(2) the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1997 does not exceed the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1996 by 1.5 billion pounds (milk equivalent, total solids basis);

the Secretary of Agriculture is directed to indicate which entity autonomous of the Government of the United States is best suited to facilitate the international market development for and exportation of United States dairy products.

(b) FUNDING OF EXPORT ACTIVITIES.—The Secretary shall assist the entity in identifying sources of funding for the activities specified in subsection (a) from within the dairy industry and elsewhere.

(c) APPLICATION OF SECTION.—This section shall apply only during the period beginning on July 1, 1997 and ending on September 30, 2000.

SEC. 1214. STUDY AND REPORT REGARDING POTENTIAL IMPACT OF URUGUAY ROUND ON PRICES, INCOME AND GOVERNMENT PURCHASES.

(a) STUDY.—The Secretary of Agriculture shall conduct a study, on a variety by variety of cheese basis, to determine the potential impact on milk prices in the United States, dairy producer income, and Federal dairy program costs, of the allocation of additional cheese granted access to the United States as a result of the obligations of the United States as a member of the World Trade Organization.

(b) REPORT.—Not later than September 30, 1996, the Secretary shall report to the Committees on Agriculture of the Senate and the House of Representatives the results of the study conducted under this section.

(c) RULE OF CONSTRUCTION.—Any limitation imposed by Act of Congress on the conduct or completion of studies or reports to Congress shall not apply to the study and report required under this section unless such limitation explicitly references this section in doing so.

CHAPTER 3—DAIRY PROMOTION PROGRAMS

SEC. 1221. RESEARCH AND PROMOTION ACTIVITIES UNDER FLUID MILK PROMOTION ACT OF 1990.

(a) EXTENSION OF ORDER.—Section 1999O of the Fluid Milk Promotion Act of 1990 (subtitle H of title XIX of Public Law 101–624; 7 U.S.C. 6414(a)) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(b) DEFINITION OF RESEARCH.—Paragraph (6) of section 1999C of such Act (7 U.S.C. 6402) is amended to read as follows:

''(6) RESEARCH.—The term 'research' means—

''(A) market research to support and increase the effectiveness of industry advertising, promotion, and educational activities; and

''(B) other research to expand sales of fluid milk products, including research regarding the development of new products, new product characteristics, and improved technology in the production, manufacturing, or processing of milk and the products of milk.''.

(c) CONFORMING AMENDMENTS REGARDING MARKETING ORDERS.—Section 1999J(b) of such Act (7 U.S.C. 6409(b)) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2), by striking ''(2) otherwise'' and inserting ''(1)''; and

(3) by redesignating paragraph (3) as paragraph (2).

(d) CLARIFICATION OF REFERENDUM REQUIREMENTS.—

(1) SUSPENSION OR TERMINATION.—Subsection (b) of section 1999O of such Act (7 U.S.C. 6414), as redesignated by subsection (a)(2), is amended—

(A) in paragraph (1), by striking ''all processors'' and inserting ''all fluid milk processors''; and

(B) in paragraph (2)(B), by striking ''all processors'' and inserting ''all fluid milk processors voting in the referendum''.

(2) CONFORMING AMENDMENT.—Section 1999N(b)(2) of such Act (7 U.S.C. 6413(b)(2)) is amended by striking ''all processors'' and inserting ''all fluid milk processors voting in the referendum''.

SEC. 1222. EXPANSION OF DAIRY PROMOTION PROGRAM TO COVER DAIRY PRODUCTS IMPORTED INTO THE UNITED STATES.

(a) DECLARATION OF POLICY.—Section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b)) is amended by inserting after ''commercial use'' the following: ''and dairy products imported into the United States''.

(b) DEFINITIONS.—

(1) MILK.—Subsection (d) of section 111 of such Act (7 U.S.C. 4502) is amended by inserting before the period at the end the following: ''or cow's milk imported into the United States in the form of dairy products intended for consumption in the United States''.

(2) DAIRY PRODUCTS.—Subsection (e) of such section is amended by inserting before the semicolon the following: ''and casein (except casein imported under sections 3501.90.20 (casein glue) and 3501.90.50 (other) of the Harmonized Tariff Schedule)''.

(3) RESEARCH.—Subsection (j) of such section is amended by inserting before the semicolon the following: ''or to reduce the costs associated with processing or marketing those products''.

(4) UNITED STATES.—Subsection (l) of such section is amended to read as follows:

''(l) the term 'United States' means the several States and the District of Columbia;''.

(5) IMPORTERS AND EXPORTERS.—Such section is further amended—

(A) in subsection (k), by striking ''and'' at the end of such subsection; and

(B) by adding at the end the following new subsections:

''(m) the term 'importer' means the first person to take title to dairy products imported into the United States for domestic consumption; and

''(n) the term 'exporter' means any person who exports dairy products from the United States.''.

(c) MEMBERSHIP OF BOARD.—Section 113(b) of such Act (7 U.S.C. 4504(b)) is amended—

(1) in the first sentence, by striking ''thirty-six members'' and inserting ''38 members, including one representative of importers and one representative of exporters to be appointed by the Secretary'';

(2) in the second sentence, by striking ''Members'' and inserting ''The remaining members''; and

(3) in the third sentence, by striking ''United States'' and inserting ''United States, including Alaska and Hawaii''.

(d) ASSESSMENT.—Section 113(g) of such Act (7 U.S.C. 4504(g)) is amended—

(1) by inserting ''(1)'' after ''(g)''; and

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

''(2) The order shall provide that each importer of dairy products intended for consumption in the United States shall remit to the Board, in the manner prescribed by the order, an assessment equal to 1.2 cents per pound of total milk solids contained in the imported dairy products, or 15 cents per hundredweight of milk contained in the imported dairy products, whichever is less. If an importer can establish that it is participating in active, ongoing qualified State or regional dairy product promotion or nutrition programs intended to increase the consumption of milk and dairy products, the importer shall receive credit in determining the assessment due from that importer for contributions to such programs of up to .8 cents per pound of total milk solids contained in the imported dairy products, or 10 cents per hundredweight of milk contained in the imported dairy products, whichever is less. The assessment collected under this paragraph shall be used for the purpose specified in paragraph (1).''.

(e) RECORDS.—Section 113(k) of such Act (7 U.S.C. 4504(k)) is amended in the first sentence by inserting after ''commercial use,'' the following: ''each importer of dairy products,''.

(f) TERMINATION OR SUSPENSION OF ORDER.—Section 116(b) of such Act (7 U.S.C. 4507(b)) is amended—

(1) by inserting ''and importers'' after ''producers'' each place it appears;

(2) by striking ''who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use''; and

(3) by adding at the end the following new sentences: ''A producer shall be eligible to vote in the referendum if the producer, during a representative period (as determined by the Secretary), has been engaged in the production of milk for commercial use. An importer shall be eligible to vote in the referendum if the importer, during a representative period (as determined by the Secretary), has been engaged in the importation of dairy products into the United States intended for consumption in the United States.''.

SEC. 1223. PROMOTION OF UNITED STATES DAIRY PRODUCTS IN INTERNATIONAL MARKETS THROUGH DAIRY PROMOTION PROGRAM.

Section 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)) is amended by adding at the end the following new sentence: ''For each of the fiscal years 1996 through 2000, the Board's budget shall provide for the expenditure of not less than 10 percent of the anticipated revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced in the United States from milk produced in the United States.''.

SEC. 1224. ISSUANCE OF AMENDED ORDER UNDER DAIRY PRODUCTION STABILIZATION ACT OF 1983.

(a) IMPLEMENTATION OF AMENDMENTS.—To implement the amendments made by sections 1222 and 1223, the Secretary of Agriculture shall issue an amended dairy products promotion and research order under section 112 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504) reflecting such amendments, and no other changes, in the order in existence on the date of the enactment of this Act.

(b) PROPOSAL OF AMENDED ORDER.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall publish a proposed dairy products promotion and research order reflecting the amendments made by sections 1222 and 1223. The Secretary shall provide notice and an opportunity for public comment on the proposed order.

(c) ISSUANCE OF AMENDED ORDER.—After notice and opportunity for public comment are provided in accordance with subsection (b), the Secretary of Agriculture shall issue a final dairy products promotion and research order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with the amendments made by sections 1222 and 1223.

(d) EFFECTIVE DATE.—The final dairy products promotion and research order shall be issued and become effective not later than 120 days after publication of the proposed order.

(e) REFERENDUM ON AMENDMENTS.—Section 115 of Dairy Production Stabilization Act of 1983 (7 U.S.C. 4506) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

''(b) REFERENDUM.—Not later than 36 months after the issuance of the order reflecting the amendments made by sections 1222 and 1223 of the Agricultural Reconciliation Act of 1995, the Secretary shall conduct a referendum under this section for the sole purpose of determining whether the requirements of such amendments shall be continued. The Secretary shall conduct the referendum among persons who have been producers or importers during a representative period as determined by the Secretary. The requirements of such amendments shall be continued only if the Secretary determines that such requirements have been approved by not less than a majority of the persons voting in the referendum. If continuation of the amendments is not approved, the Secretary shall issue a new order, within six months after the announcement of the results of the referendum, that is identical to the order in effect on the date of the enactment of the Agricultural Reconciliation Act of 1995. The new order shall become effective upon issuance and shall not be subject to referendum for approval.''.

CHAPTER 4—VERIFICATION OF MILK RECEIPTS

SEC. 1231. PROGRAM TO VERIFY RECEIPTS OF MILK.

(a) ESTABLISHMENT OF VERIFICATION PROGRAM.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e), as amended by section 1201, is further amended by adding at the end the following new subsection:

''(k) VERIFICATION OF RECEIPTS OF MILK.—

''(1) VERIFICATION PROGRAM REQUIRED.—The Secretary shall establish a program through which the verification of receipts of all cow's milk marketed in the 48 contiguous States and the auditing of marketing agreements with respect to receipts of such milk may be accomplished. The Secretary shall prescribe regulations to establish the program required by this subsection.

''(2) ADMINISTRATIVE SERVICES.—The program shall provide a means by which (A) processors, associations of producers, and other persons engaged in the handling of milk and milk products file reports with the Secretary regarding receipts of milk, prices paid for milk, and the purposes for which milk was used by handlers, (B) authorized deductions from payments to producers, including assessments for research and promotion programs, are collected, (C) assurance of proper payment by handlers for milk purchased is achieved, and (D) the reports, records, and facilities of handlers are reviewed and inspected to assure their accuracy. The regulations shall provide for the publication of statistics regarding receipts, prices, and uses of milk. Statistics published by the Secretary shall include information regarding payments received by producers for milk on a component basis, including payments for milkfat, protein and other solids. The Secretary shall collect an assessment from handlers required to file reports under this paragraph to cover any expenses associated with the collection and publication of such statistics. Assessments shall be based on the relative volume of receipts of milk by each handler and shall not exceed the total cost of such expenses.

''(3) MARKETING SERVICES.—The program shall further provide a means by which the weighing, sampling, and testing of milk purchased from producers is accomplished and verified. This paragraph shall not apply to producers for whom such marketing services are rendered by a cooperative marketing association qualified under the provisions of the Act of February 18, 1922 (7 U.S.C. 291–292), commonly known as the 'Co-operative Marketing Associations Act'. An assessment may be levied on producers for whom such services are performed to cover the expenses of the Secretary or the cooperative marketing association providing the services. Assessments shall be based on the relative marketings of milk by each producer and shall not exceed the total cost of providing such services.

''(4) MARKETING AGREEMENTS.—Producers or associations of producers, including cooperative marketing associations qualified under the provisions of the Act of February 18, 1922 (7 U.S.C. 291–292), commonly known as the 'Co-operative Marketing Associations Act', may negotiate and enter into marketing agreements or other private contracts with handlers for the marketing and receipt of milk. Upon the request of either or both of the parties, the Secretary may perform an audit of the agreement or contract to assure compliance with its terms, except that the Secretary shall be reimbursed for any costs associated with the audit in the manner provided in the agreement or contract. If there is no provision for the reimbursement of the Secretary in the agreement or contract, the party or parties requesting the audit shall provide such reimbursement.

''(5) PROHIBITION ON MARKETING LIMITATIONS.—No marketing agreement or Government order or regulation applicable to milk and its products in any marketing area or jurisdiction shall prohibit or in any manner limit the marketing in that area of any milk or product of milk produced in any production area in the United States.

''(6) EFFECT ON EXISTING MARKETING ORDERS.—Effective July 1, 1996, the program established under this subsection shall supersede any Federal marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to milk or its products.''.

(b) TIME FOR ISSUANCE.—Not later than July 1, 1996, the Secretary of Agriculture shall issue final regulations under subsection (k) of section 204 of the Agricultural Act of 1949, as added by this section, to establish the verification program required by such subsection. The regulations shall take effect on that date.

(c) PROCESS.—In preparation for the issuance of the regulations under subsection (k) of section 204 of the Agricultural Act of 1949, as added by this section, the Secretary shall comply with the following:

(1) The Secretary shall issue proposed regulations not later than April 1, 1996.

(2) The Secretary shall provide for a comment period on the regulations, as proposed under paragraph (1). However, the comment period shall not exceed 60 days nor extend past May 31, 1996.

SEC. 1232. VERIFICATION PROGRAM TO SUPERSEDE MULTIPLE EXISTING FEDERAL ORDERS.

(a) TERMINATION OF MILK MARKETING ORDERS.—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking paragraphs (5) and (18) relating to milk and its products.

(b) PROHIBITION ON SUBSEQUENT ORDERS REGARDING MILK.—Paragraph (2) of such section is amended—

(1) by striking ''Milk, fruits'' and inserting ''Fruits''; and

(2) by inserting ''milk,'' after ''honey,'' in subparagraph (B).

(c) CONFORMING AMENDMENTS.—(1) Section 2(3) of such Act (7 U.S.C. 602(3) is amended by striking '', other than milk and its products,''.

(2) Section 8c of such Act (7 U.S.C. 608c) is amended—

(A) in paragraph (6), by striking '', other than milk and its products,'';

(B) in paragraph (7)(B), by striking ''(except for milk and cream to be sold for consumption in fluid form)'';

(C) in paragraph (11)(B), by striking ''Except in the case of milk and its products, orders'' and inserting ''Orders'';

(D) in paragraph (13)(A), by striking '', except to a retailer in his capacity as a retailer of milk and its products''; and

(E) in paragraph (17), by striking the second proviso, which relates to milk orders.

(3) Section 8d(2) of such Act (7 U.S.C. 608d(2)) is amended by striking the second sentence, which relates to information from milk handlers.

(4) Section 10(b)(2) of such Act (7 U.S.C. 610(b)(2)) is amended—

(A) by striking clause (i);

(B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(C) in clause (i) (as so redesignated), by striking ''other commodity'' in the first sentence and inserting ''commodity''.

(5) Section 11 of such Act (7 U.S.C. 611) is amended by striking ''and milk, and its products,''.

(6) Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Public Law 103–111; 107 Stat. 1079; 7 U.S.C. 608d note), is amended by striking the third proviso, which relates to information from milk handlers.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1996.

CHAPTER 5—MISCELLANEOUS PROVISIONS RELATED TO DAIRY

SEC. 1241. EXTENSION OF TRANSFER AUTHORITY REGARDING MILITARY AND VETERANS HOSPITALS.

Subsections (a) and (b) of section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a) are amended by striking ''1995'' both places it appears and inserting ''2002''.

SEC. 1242. EXTENSION OF DAIRY INDEMNITY PROGRAM.

Section 3 of Public Law 90–484 (7 U.S.C. 450*l*) is amended by striking ''1995'' and inserting ''2002''.

SEC. 1243. EXTENSION OF REPORT REGARDING EXPORT SALES OF DAIRY PRODUCTS.

Section 1163(c) of the Food Security Act of 1985 is amended by striking ''1995'' and inserting ''2002''.

SEC. 1244. STATUS OF PRODUCER-HANDLERS.

The legal status of producer-handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this title take effect as it was before the effective date of the amendments.

Subtitle C—Other Commodities

SEC. 1301. EXTENSION AND MODIFICATION OF PRICE SUPPORT AND QUOTA PROGRAMS FOR PEANUTS.

(a) EXTENSION OF PRICE SUPPORT PROGRAM.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(1) in the section heading, by striking ''**1991 through 1997 crops of**'';

(2) in subsections (a)(1), (b)(1), and (h), by striking ''1997'' each place it appears and inserting ''2002'';

(3) in subsection (g)(1)—

(A) by striking ''1997 crops'' the first place it appears and inserting ''2002 crops''; and

(B) by striking ''1997 crop'' both places it appears and inserting ''1997 through 2002 crops''; and

(4) in subsection (g)(2)(A)—

(A) by striking ''1997 crop'' in clause (i)(IV) and inserting ''1997 through 2002 crops''; and

(B) by striking ''1997'' in clause (ii)(II) and inserting ''2002''.

(b) CHANGES TO PRICE SUPPORT PROGRAM.—

(1) QUOTA SUPPORT RATE.—

(A) SUPPORT RATE FOR 1996 THROUGH 2002 CROPS.—Subsection (a)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended to read as follows:

''(2) SUPPORT RATE.—The national average quota support rate for quota peanuts shall be equal to $610 per ton for each of the 1996 through 2002 crops of quota peanuts.''.

(B) EFFECT OF AMENDMENT ON CURRENT CROP.—The national average quota support rate in effect under section 108B(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) on the day before the date of the enactment of this Act shall continue to apply with respect to the 1995 crop of quota peanuts.

(2) OFFERS FROM HANDLERS.—Subsection (a) of such section is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following new paragraph:

''(4) OFFERS FROM HANDLERS.—The Secretary shall reduce the support rate by 15 percent for any producer on a farm who had available to the producer an offer from a handler to purchase quota peanuts from the farm at a price equal to or greater than the applicable quota support rate.''.

(3) COVERING LOSSES.—Subsection (d)(2) of such section is amended to read as follows:

''(2) QUOTA LOAN POOLS.—Losses in quota area pools shall be covered using the following sources in the following order of priority:

''(A) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by such producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938.

''(B) OTHER PRODUCERS IN SAME POOL.—Further losses in an area quota pool shall be offset by reducing the gain of any producer in such pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and export edible use.

''(C) USE OF MARKETING ASSESSMENTS.—The Secretary shall use funds collected under subsection (g) (except funds attributable to handlers) to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

''(D) CROSS COMPLIANCE.—Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938, shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

''(E) INCREASED ASSESSMENTS.—If use of the authorities provided in the preceding subparagraphs is not sufficient to cover losses in an area quota pool, the Secretary shall increase the marketing assessment established under subsection (g) by such an amount as the Secretary considers necessary to cover the losses. The increased assessment shall apply only to quota peanuts marketed in the production area covered by that pool. Amounts collected under subsection (g) as a result of the increased assessment shall be retained by the Secretary to cover losses in that pool.''.

(c) EXTENSION OF NATIONAL POUNDAGE QUOTA PROGRAM.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

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

(A) in the section heading, by striking ''**1991 THROUGH 1997 CROPS OF**'';

(B) in subsection (a)(3), by striking ''1990'' and inserting ''1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years'';

(C) in subsection (b)(1)(A)—

(i) by striking ''1997'' and inserting ''2002''; and

(ii) in clause (i), by inserting before the semicolon the following: '', in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years''; and

(D) in subsections (b)(1)(B), (b)(2)(A), (b)(2)(C), (b)(3)(A), and (f), by striking ''1997'' each place it appears and inserting ''2002'';

(2) in section 358b (7 U.S.C. 1358b)—

(A) in the section heading, by striking ''**1991 THROUGH 1995 CROPS OF**''; and

(B) in subsection (c), by striking ''1995'' and inserting ''2002'';

(3) in section 358c(d) (7 U.S.C. 1358c(d)), by striking ''1995'' and inserting ''2002''; and

(4) in section 358e (7 U.S.C. 1359a)—

(A) in the section heading, by striking ''**1991 THROUGH 1997**'' and inserting ''**CERTAIN**''; and

(B) in subsection (i), by striking ''1997'' and inserting ''2002''.

(d) PRIORITIZED QUOTA REDUCTIONS.—Section 358–1(b)(2)(C) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(2)(C)) is amended—

(1) by striking ''all the''; and

(2) by adding at the end the following new sentence: ''Rather than allocating the decrease among all the farms in a State, the Secretary shall allocate the decrease among farms in the following order of priority:

''(i) Farms owned or controlled by municipalities, airport authorities, schools, colleges, refuges, and other public entities (not including universities for research purposes).

''(ii) Farms for which the quota holder is not a producer and resides in another State.

''(iii) Farms for which the quota holder, although a resident of the State, is not a producer.

''(iv) Other farms described in the first sentence of this subparagraph.''.

(e) ELIMINATION OF QUOTA FLOOR.—Section 358–1(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(a)(1)) is amended by striking the second sentence.

(f) SPRING AND FALL TRANSFERS WITHIN A STATE.—Section 358b(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)(1)) is amended—

(1) by striking ''any such lease'' in the matter preceding the subparagraphs and inserting ''any such sale or lease''; and

(2) by striking ''in the fall or after the normal planting season—'' and subparagraphs (A) and (B) and inserting the following: ''in the spring (or before the normal planting season) or in the fall (or after the normal planting season) with the owner or operator of a farm located within any county in the same State. In the case of a fall transfer or a transfer after the normal planting season, the transfer may be made only if not less than 90 percent of the basic quota (the farm quota exclusive of temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased.''.

(g) TRANSFERS IN COUNTIES WITH SMALL QUOTAS.—Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended by adding at the end the following new paragraph:

''(4) TRANSFERS IN COUNTIES WITH SMALL QUOTAS.—Notwithstanding paragraphs (1) and (2), in the case of any county for which the poundage quota allocated to the county was less than 10,000 tons for the preceding year's crop, all or any part of a farm poundage quota for a farm in that county may be

transferred by sale or lease or otherwise to a farm in any other county in the same State.''.

(h) UNDERMARKETINGS.—

(1) ELIMINATION.—Subsection (b) of section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended by striking paragraphs (8) and (9).

(2) CONFORMING AMENDMENTS.—(A) Such subsection is further amended—

(i) in paragraph (1)(B), by striking ''including—'' and clauses (i) and (ii) and inserting ''including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).''; and

(ii) in paragraph (3)(B), by striking ''include—'' and clauses (i) and (ii) and inserting ''include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).''.

(B) Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(i) in paragraph (1) (as amended by subsection (f)), by striking ''(including any applicable under marketings)'' both places it appears;

(ii) in paragraph (2), by striking ''(including any applicable under marketings)''; and

(iii) in paragraph (3), by striking ''(including any applicable undermarketings)''.

(i) LIMITATION ON PAYMENTS FOR DISASTER TRANSFERS.—Section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)), as amended by subsection (h), is further amended by adding at the end the following new paragraph:

''(8) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide, except that the poundage of such peanuts so transferred shall not exceed the difference in the total peanuts meeting quality requirements for domestic edible use as determined by the Secretary marketed from the farm and the total farm poundage quota, excluding quota pounds transferred to the farm in the fall. Peanuts transferred under this paragraph shall be supported at a total of not more than 70 percent of the quota support rate for the marketing years in which such transfers occur and such transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.''.

(j) TEMPORARY QUOTA ALLOCATION.—

(1) ANNUAL ALLOCATION.—Subsection (b)(2) of section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended—

(A) in subparagraph (A), by striking ''subparagraph (B) and subject to''; and

(B) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) TEMPORARY QUOTA ALLOCATION.—

''(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph. The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted under regulations prescribed by the Secretary. The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited for the applicable marketing year only, in total to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

''(ii) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section shall alter or change in any way the requirements regarding the use of quota and additional peanuts established by section 359a(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(b)), as added by section 804 of the Food, Agriculture, Conservation, and Trade Act of 1990.''.

(2) CONFORMING AMENDMENT.—Subsection (a)(1) of such section is amended by striking ''domestic edible, seed,'' and inserting ''domestic edible use''.

(k) SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not apply to the 1996 through 2002 crops of peanuts:

(1) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(2) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(3) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(4) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(5) Section 371 (7 U.S.C. 1371).

(l) EXTENSION OF REPORTING AND RECORDKEEPING REQUIREMENTS.—Section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting after the first sentence the following new sentence: ''In the case of the 1996 through 2002 crops of peanuts, this subsection shall also apply to all producers engaged in the production of peanuts.''.

(m) SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not apply to the 1996 through 2002 crops of peanuts.

SEC. 1302. AVAILABILITY OF LOANS FOR PROCESSORS OF SUGARCANE AND SUGAR BEETS.

(a) SUGAR LOANS.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

''SEC. 206. ASSURANCE OF ADEQUATE SUGAR SUPPLY.

''(a) SUGARCANE PROCESSOR LOANS.—For the 1996 through 2002 crops of domestically grown sugarcane, the Secretary shall make loans available to sugarcane processors on raw cane sugar processed from such crops. Subject to subsection (c), loans under this subsection shall be made at a rate equal to the rate provided under this section, as in effect on the day before the date of the enactment of the Agricultural Reconciliation Act of 1995, for raw cane sugar produced from the 1995 crop of domestically grown sugarcane.

''(b) SUGAR BEETS.—For the 1996 through 2002 crops of domestically grown sugar beets, the Secretary shall make loans available to sugar beet processors on refined beet sugar processed from such crops. Subject to subsection (c), loans under this subsection shall be made at a rate equal to the rate provided under this section, as in effect on the day before the date of the enactment of the Agricultural Reconciliation Act of 1995, for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

''(c) REDUCTION IN LOAN RATES.—

''(1) REDUCTION REQUIRED.—The Secretary shall reduce the loan rate specified in subsection (a) for domestically grown sugarcane and subsection (b) for domestically grown sugar beets if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of the European Union and other major sugar growing, producing, and exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture.

''(2) EXTENT OF REDUCTION.—The Secretary shall not reduce the loan rate under subsection (a) or (b) below a rate that provides an equal measure of support to that provided by the European Union and other major sugar growing, producing, and exporting countries, based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture.

''(3) ANNOUNCEMENT OF REDUCTION.—The Secretary shall announce any loan rate reduction to be made under this subsection as far in advance as is practicable.

''(4) MAJOR SUGAR COUNTRIES DEFINED.—For purposes of this subsection, the term 'major sugar growing, producing, and exporting countries' means—

''(A) the countries of the European Union; and

''(B) the ten foreign countries not covered by subparagraph (A) that the Secretary determines produce the greatest amount of sugar.

''(5) AGREEMENT ON AGRICULTURE DEFINED.—For purposes of this subsection and subsection (d), the term 'Agreement on Agriculture' means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

''(d) LOAN TYPE; PROCESSOR ASSURANCES.—

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

''(2) SWITCH TO NONRECOURSE LOANS.—

''(A) IN GENERAL.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is set at, or is increased to, a level that exceeds the loan modification threshold, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during such fiscal year shall be modified by the Secretary into a nonrecourse loan.

''(B) LOAN MODIFICATION THRESHOLD DEFINED.—For the purposes of this subsection, the term 'loan modification threshold' means—

''(i) for fiscal years 1996 and 1997, 1,257,000 short tons raw value; and

''(ii) for fiscal years after fiscal year 1997, 103 percent of the loan modification threshold for the previous fiscal year.

''(3) PROCESSOR ASSURANCES.—If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to modify recourse loans into nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that the processor will provide an appropriate minimum payment for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

''(4) ANNOUNCEMENT OF THRESHOLD.—As soon as practicable, but not later than September 1 of each fiscal year, the Secretary shall announce the loan modification threshold that shall apply under paragraph (2) for the subsequent fiscal year.

''(e) LENGTH OF LOANS.—Each loan made under this section shall be for a term of three months, and may be extended for additional three-month terms, except that—

''(1) no loan may have a cumulative term in excess of nine months or a term that extends beyond September 30 of the fiscal year in which the loan is made; and

''(2) a processor may terminate a loan and redeem the collateral for the loan at any time by payment in full of principal, interest, and fees then owing.

''(f) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

''(g) MARKETING ASSESSMENT.—

''(1) SUGARCANE.—Effective only for marketings of raw cane sugar during fiscal years 1996 through 2003, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment for each pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed. The assessment rate per pound is equal to 1.5 percent of the loan rate for raw cane sugar under this section.

''(2) SUGAR BEETS.—Effective only for marketings of beet sugar during fiscal years 1996 through 2003, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment for each pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed. The assessment rate per pound is equal to 1.6083 percent of the loan rate for raw cane sugar under this section.

''(3) COLLECTION.—

''(A) TIMING.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

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

''(4) PENALTIES.—If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

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

''(B) the loan rate in effect at the time of the violation.

''(5) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

''(6) DEFINITION OF MARKET.—For purposes of this subsection, the term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and to deliver to a buyer.

''(h) INFORMATION REPORTING.—

''(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

''(2) DUTY OF PRODUCERS TO REPORT.—In order to efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

''(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

''(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

''(i) SUGAR ESTIMATES.—

''(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the United States demand for sugar for that fiscal year, which shall be equal to—

''(A) the quantity of sugar, that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products); plus

''(B) the quantity of sugar that would provide for adequate carryover stocks; minus

''(C) the quantity of sugar that will be available from carry-in stocks.

''(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.

''(j) REGULATIONS.—The Secretary shall issue such regulations as the Secretary determines necessary to carry out this section.''.

(b) EFFECT ON EXISTING LOANS FOR SUGAR.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 1991 through 1995 crops of sugarcane and sugar beets.

(c) TERMINATION OF MARKETING QUOTAS AND ALLOTMENTS.—

(1) TERMINATION.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa–1359jj) is repealed.

(2) CONFORMING AMENDMENT.—Section 344(f)(2) of such Act (7 U.S.C. 1344(f)(2)) is amended by striking ''sugar cane for sugar; sugar beets for sugar;''.

SEC. 1303. REPEAL OF OBSOLETE AUTHORITY FOR PRICE SUPPORT FOR COTTONSEED AND COTTONSEED PRODUCTS.

(a) REPEAL.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) is amended by striking paragraph (1).

(b) CONFORMING REPEAL.—Section 420 of the Agricultural Act of 1949 (7 U.S.C. 1432) is repealed.

Subtitle D—Miscellaneous Program Changes

SEC. 1401. LIMITATIONS ON ASSISTANCE UNDER EMERGENCY LIVESTOCK FEED ASSISTANCE PROGRAM.

Section 609 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471g) is amended by striking subsections (c) and (d) and inserting the following new subsection:

''(c) No person may receive benefits under this title attributable to lost production of a feed commodity due to a natural disaster if crop insurance protection or noninsured crop disaster assistance for the loss of feed produced on the farm is available to the person under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).''.

SEC. 1402. CONSERVATION RESERVE PROGRAM.

(a) LIMITATIONS ON ACREAGE ENROLLMENTS.—

(1) LIMITATION.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended by striking ''38,000,000 acres'' and inserting ''36,400,000 acres''.

(2) PROHIBITION ON 1997 INCREASE.—Section 727 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996, is amended by striking the proviso relating to enrollment of new acres in 1997.

(b) OPTIONAL CONTRACT TERMINATION BY PRODUCERS.—Section 1235 of such Act (16 U.S.C. 3835), is amended by adding at the end the following new subsection:

''(e) TERMINATION BY OWNER OR OPERATOR.—

''(1) NOTICE OF TERMINATION.—An owner or operator of land subject to a contract entered into under this subchapter may terminate the contract by submitting to the Secretary written notice of the intention of the owner or operator to terminate the contract.

''(2) EFFECTIVE DATE.—The contract termination shall take effect 60 days after the date on which the owner or operator submits the written notice under paragraph (1).

''(3) PRO-RATED RENTAL PAYMENT.—If a contract entered into under this subchapter is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

''(4) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator who requested such termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

''(5) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the Secretary may impose conservation requirements under subtitle A on the use of the land that are similar to the requirements imposed on other lands subject to such subtitle, but in no case shall such requirements be more onerous that the requirements imposed on other lands.''.

(c) LIMITATION ON RENTAL RATES.—Section 1234(c) of such Act (16 U.S.C. 3834) is amended by adding at the end the following new paragraph:

''(5) In the case of the extension of a contract, or a new contract covering land which was previously enrolled in the conservation reserve, annual rental payments under the new or extended contract may not exceed 75 percent of the annual rental payment under the previous contract.''.

SEC. 1403. CROP INSURANCE.

(a) CONVERSION OF CATASTROPHIC RISK PROTECTION PROGRAM TO VOLUNTARY PROGRAM.—Subsection (b)(7) of section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

''(B) EXCEPTION TO MANDATORY PARTICIPATION REQUIREMENT.—Notwithstanding subparagraph (A), a producer may decline to obtain catastrophic risk protection beginning with spring-planted 1996 crops and in any subsequent crop year, yet remain eligible for any market transition contract or marketing assistance loan, the conservation reserve program, or any benefit described in section 371 of the Consolidated Farm and Rural Development Act, if the producer agrees in writing to waive any eligibility for emergency crop loss assistance in connection with losses to any crop for which the producer declines to obtain catastrophic risk protection.''.

(b) DELIVERY OF VOLUNTARY CATASTROPHIC PROTECTION.—Subsection (b)(4) of such section is amended by adding at the end the following new subparagraphs:

''(C) ELIMINATION OF SECRETARIAL OPTION.—For crop years beginning after the implementation of the exception under paragraph (7)(B) to the mandatory participation requirement, the option for delivery of catastrophic risk protection provided in subparagraph (A)(ii) shall not be available to the Secretary. All risk protection policies written by the Department prior to that date shall be transferred, including all fees collected for the crop year in which the private sector will assume the policies, in an orderly manner to the private sector for performance of all service and loss adjustment functions.

''(D) GUARANTEE OF PRIVATE SECTOR SERVICE.—In full consultation and cooperation with approved insurance providers, the Corporation shall develop a plan to ensure that each producer of an insured crop has the opportunity to be serviced by an approved insurance provider if insurance is available for that crop in that county. Not later than May 1, 1996, the Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the plan in the form it is to be implemented by the Secretary.''.

(c) ESTABLISHMENT OF THE OFFICE OF RISK MANAGEMENT.—

(1) ESTABLISHMENT.—The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 226 (7 U.S.C. 6932) the following new section:

''SEC. 226A. OFFICE OF RISK MANAGEMENT.

''(a) ESTABLISHMENT.—Subject to subsection (e), the Secretary shall establish and maintain in the Department an independent Office of Risk Management.

''(b) FUNCTIONS OF THE OFFICE OF RISK MANAGEMENT.—The Office of Risk Management shall have jurisdiction over the following functions:

''(1) Supervision of the Federal Crop Insurance Corporation.

''(2) Administration and oversight of all aspects, including delivery through local offices of the Department, of all programs authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

''(3) Any pilot or other programs involving revenue insurance, risk management savings accounts, or the use of the futures market to manage risk and support farm income that may be established under the Federal Crop Insurance Act or other law.

''(4) Such other functions as the Secretary considers appropriate.

''(c) ADMINISTRATOR.—

''(1) The Office of Risk Management shall be headed by an Administrator who shall be appointed by the Secretary.

''(2) The Administrator of the Office of Risk Management shall also serve as Manager of the Federal Crop Insurance Corporation.

''(d) RESOURCES.—

''(1) FUNCTIONAL COORDINATION.—Certain functions of the Office of Risk Management, such as human resources, public affairs, and legislative affairs, may be provided by a consolidation of such functions under the Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

''(2) MINIMUM PROVISIONS.—Notwithstanding paragraph (1) or any other provision of law or order of the Secretary, the Secretary shall provide the Office of Risk Management with human and capital resources sufficient for the Office to carry out its functions in a timely and efficient manner.

''(3) FISCAL YEAR 1996 FUNDING.—Not less than $88,500,000 of the appropriation provided for the salaries and expenses of the Consolidated Farm Services Agency in the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 shall be provided to the Office of Risk Management for the salaries and expenses of the Office.''.

(2) CONFORMING AMENDMENT.—Section 226(b) of such Act (7 U.S.C. 6932(b)) is amended by striking paragraph (2).

(d) RECONFIGURATION OF BOARD OF DIRECTORS.—Section 505 of the Federal Crop Insurance Act (7 U.S.C. 1505) is amended to read as follows:

''SEC. 505. BOARD OF DIRECTORS.

''(a) AUTHORITY.—The management of the Corporation shall be vested in a Board of Directors subject to the general supervision of the Secretary.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Board shall consist of the Manager of the Corporation, the Under Secretary of Agriculture for Farm and Foreign Agricultural Services, one person who is an officer or employee of an approved insurance provider, one person who is a licensed crop insurance agent, one person experienced in the reinsurance business who is not otherwise employed by the Federal Government, and four active producers who are not otherwise employed by the Federal Government. The Secretary shall not be a member of the Board.

''(2) PRODUCER MEMBERS.—In appointing the four active producers who are not otherwise employed by the Federal Government, the Secretary shall ensure that three such members are policyholders and are from different geographic areas of the United States, in order that diverse agricultural interests in the United States are at all times represented on the Board. The Secretary shall ensure that the fourth active producer, who may also be a policyholder, receives a significant portion of crop income from crops covered by the noninsured crop disaster assistance program established under section 519.

''(c) APPOINTMENT.—

''(1) MANAGER.—The Administrator of the Office of Risk Management appointed by the Secretary under section 226A(c) of the Department of Agriculture Reorganization Act of 1994 shall serve as Manager of the Corporation.

''(2) TERMS OF OTHER MEMBERS.—Other than the Manager of the Corporation and the Under Secretary of Agriculture for Farm and Foreign Agricultural Services, the members of the Board shall be appointed by the Secretary for a term of three years. However, in the initial appointment of such members, the Secretary shall appoint two members for one year, two members for two years, and two members for three years in order to provide greater continuity to the Board.

''(3) SUCCESSION.—A member of the Board appointed under paragraph (2) may serve after the expiration of the term of office of such member until the successor for such member has taken office.

''(d) QUORUM.—Five of the members in office shall constitute a quorum for the transaction of the business of the Board.

''(e) IMPAIRMENT OF POWERS.—The powers of the Board to execute the functions of the Corporation shall be impaired at any time there are not six members of the Board in office. Any impairment of the powers of the Board shall also serve to impair the powers of the Manager to act under any delegation of power provided under subsection (g).

''(f) COMPENSATION.—

''(1) EMPLOYEES OF THE DEPARTMENT.—The members of the Board who are employed in the Department shall receive no additional compensation for their services as members, but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation outside of the District of Columbia.

''(2) NONEMPLOYEES OF THE FEDERAL GOVERNMENT.—The members of the Board who are not employed by the Federal Government shall be paid such compensation for their services as members as the Secretary shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for positions a level V of the Executive Schedule under section 5316 of title 5, United States Code, when actually employed. Such members may also receive actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of such title for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business. Any such compensation shall be paid from the insurance fund established under section 516(c).

''(g) CHIEF EXECUTIVE OFFICER.—The Manager of the Corporation shall be its chief executive officer, with such power and authority as may be conferred by the Board.''.

SEC. 1404. REPEAL OF FARMER OWNED RESERVE PROGRAM.

(a) REPEAL.—Section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is repealed.

(b) EFFECT OF REPEAL ON EXISTING LOANS.—The repeal of section 110 of the Agricultural Act of 1949 by subsection (a) shall not affect the validity or terms and conditions of any extended price support loan provided under such section before the date of the enactment of this Act.

SEC. 1405. REDUCTION IN FUNDING LEVELS FOR EXPORT ENHANCEMENT PROGRAM.

Section 301(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)) is amended by striking paragraph (1) and inserting the following new paragraph:

''(1) IN GENERAL.—To carry out the program established under this section, the Commodity Credit Corporation shall make available—

''(A) for each of the fiscal years 1991 through 1995, not more than $500,000,000 of the funds or commodities of the Commodity Credit Corporation;

''(B) for each of the fiscal years 1996 and 1997, not more than $400,000,000 of the funds or commodities of the Commodity Credit Corporation;

''(C) for fiscal year 1998, not more than $500,000,000 of the funds or commodities of the Commodity Credit Corporation;

''(D) for fiscal year 1999, not more than $550,000,000 of the funds or commodities of the Commodity Credit Corporation;

''(E) for fiscal year 2000, not more than $579,000,000 of the funds or commodities of the Commodity Credit Corporation; and

''(F) for each of the fiscal years 2001 and 2002, not more than $478,000,000 of the funds or commodities of the Commodity Credit Corporation.''.

SEC. 1406. BUSINESS INTERRUPTION INSURANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Not later than December 31, 1996, the Secretary of Agriculture shall implement a program (to be known as the ''Business Interruption Insurance Program''), under which the producer of a program crop could elect to obtain revenue insurance coverage to ensure that the producer receives an indemnity payment if the producer suffers a loss of revenue. The nature and extent of the program and the manner of determining the amount of an indemnity payment shall be established by the Secretary.

(b) REPORT ON PROGRESS AND PROPOSED EXPANSION.—Not later than January 1, 1998, the Secretary shall submit to the Commission on the 21st Century Production Agriculture the data and results of the program through October 1, 1997. In addition, the Secretary shall

submit information and recommendations to the Commission with respect to the program that will serve as the basis for the Secretary to offer revenue insurance to agricultural producers, at one or more levels of coverage, that—

(1) is in addition to, or in lieu of, catastrophic and higher levels of crop insurance;

(2) is offered through reinsurance arrangements with private insurance companies;

(3) is actuarially sound; and

(4) requires the payment of premiums and administrative fees by participating producers.

(c) PROGRAM CROP DEFINED.—For purposes of this section, the term ''program crop'' means a crop of wheat, corn, grain sorghums, oats, barley, upland cotton, or rice.

Subtitle E—Commission on 21st Century Production Agriculture

SEC. 1501. ESTABLISHMENT.

There is hereby established a commission to be known as the ''Commission on 21st Century Production Agriculture'' (hereinafter in this title referred to as the ''Commission'').

SEC. 1502. COMPOSITION.

(a) MEMBERSHIP AND APPOINTMENT.—The Commission shall be composed of 11 members, appointed as follows:

(1) Three members shall be appointed by the President.

(2) Four members shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives in consultation with the ranking minority member of the Committee.

(3) Four members shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate in consultation with the ranking minority member of the Committee.

(b) QUALIFICATIONS.—At least one of the members appointed under each of the paragraphs (1), (2), and (3) of subsection (a) shall be an individual who is primarily involved in production agriculture. All other members of the Commission shall be appointed from among individuals having knowledge and experience in agricultural production, marketing, finance, or trade.

(c) TERM OF MEMBERS; VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) TIME FOR APPOINTMENT; FIRST MEETING.—The members of the Commission shall be appointed not later than October 1, 1997. The Commission shall convene its first meeting to carry out its duties under this title 30 days after six members of the Commission have been appointed.

(e) CHAIRMAN.—The chairman of the Commission shall be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

SEC. 1503. COMPREHENSIVE REVIEW OF PAST AND FUTURE OF PRODUCTION AGRICULTURE.

(a) INITIAL REVIEW.—The Commission shall conduct a comprehensive review of changes in the condition of production agriculture in the United States since the date of the enactment of this Act and the extent to which such changes are the result of the amendments made by this Act. The review shall include the following:

(1) An assessment of the initial success of market transition contracts under section 102 of the Agricultural Act of 1949 in supporting the economic viability of farming in the United States.

(2) An assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief.

(3) An assessment of the changes in farmland values and agricultural producer incomes since the date of the enactment of this Act.

(4) An assessment of the extent to which regulatory relief for agricultural producers has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations.

(5) An assessment of the extent to which tax relief for agricultural producers has been enacted in the form of capital gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high and low income years.

(6) An assessment of the effect of any Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implementation and success of international trade agreements.

(7) An assessment of the likely affect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

(b) SUBSEQUENT REVIEW.—The Commission shall conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. The review shall include the following:

(1) An assessment of changes in the condition of production agriculture in the United States since the initial review conducted under subsection (a).

(2) Identification of the appropriate future relationship of the Federal Government with production agriculture after 2002.

(3) An assessment of the personnel and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

(c) RECOMMENDATIONS.—In carrying out the subsequent review under subsection (b), the Commission shall develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2).

SEC. 1504. REPORTS.

(a) REPORT ON INITIAL REVIEW.—Not later than June 1, 1998, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the initial review conducted under section 1503(a).

(b) REPORT ON SUBSEQUENT REVIEW.—Not later than January 1, 2001, the Commission shall submit to the President and the congressional committees specified in subsection (a) a report containing the results of the subsequent review conducted under section 1503(b).

SEC. 1505. POWERS.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this title, conduct such hearings, sit and act at such times, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) ASSISTANCE FROM OTHER AGENCIES.—The Commission may secure directly from any department or agency of the Federal Government such information as may be necessary for the Commission to carry out its duties under this title. Upon request of the chairman of the Commission, the head of the department or agency shall, to the extent permitted by law, furnish such information to the Commission.

(c) MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(d) ASSISTANCE FROM SECRETARY.—The Secretary of Agriculture shall provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

SEC. 1506. COMMISSION PROCEDURES.

(a) MEETINGS.—The Commission shall meet on a regular basis (as determined by the chairman) and at the call of the chairman or a majority of its members.

(b) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

SEC. 1507. PERSONNEL MATTERS.

(a) COMPENSATION.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(b) STAFF.—The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, United States Code, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties under this title without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or any other provision of law, relating to the number, classification, and General Schedule rates. No employee appointed under this subsection (other than the staff director) may be compensated at a rate to exceed the maximum rate applicable to level GS–15 of the General Schedule.

(c) DETAILED PERSONNEL.—Upon request of the chairman of the Commission, the head of any department or agency of the Federal Government is authorized to detail, without reimbursement, any personnel of such department or agency to the Commission to assist the Commission in carrying out its duties under this section. The detail of any such personnel may not result in the interruption or loss of civil service status or privilege of such personnel.

SEC. 1508. TERMINATION OF COMMISSION.

The Commission shall terminate upon submission of the final report required by section 1504.

TITLE II—COMMITTEE ON BANKING AND FINANCIAL SERVICES

SEC. 2001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Subtitle A—Housing Provisions

SEC. 2101. TERMINATION OF RTC AND FDIC AFFORDABLE HOUSING PROGRAMS.

(a) REPEAL OF UNIFIED PROGRAM AND TRANSFER OF RTC WINDUP AUTHORITY TO HUD.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by striking paragraph (17) and inserting the following new paragraph:

''(17) TRANSFER OF AUTHORITY.—The Secretary shall assume, not later than December 31, 1995, and thereafter shall carry out, any remaining authority and responsibilities of the Corporation to recapture excess proceeds from resale of properties and to monitor and enforce low-income occupancy requirements or rent limitations under this subsection and shall assume any direct or contingent liability of the Corporation to carry out such authority and responsibilities.''.

(b) TERMINATION OF RTC AFFORDABLE HOUSING PROGRAM.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

''(18) TERMINATION.—

''(A) IN GENERAL.—On and after the date of the enactment of the Seven-Year Balanced Budget Reconciliation Act of 1995, the provisions of this subsection (other than paragraph (17)) shall not apply with respect to any eligible residential property or eligible condominium property.

''(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), the provisions of this subsection shall continue to apply on and after such date of enactment to any eligible residential property or eligible condominium property that—

''(i) has been sold or otherwise disposed of by the Corporation before such date of enactment; or

''(ii) is subject to a contract of sale or other disposition entered into before such date of enactment.''.

(c) TERMINATION OF AFFORDABLE HOUSING ADVISORY BOARD.—Section 14(b)(9) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended by striking ''September 30, 1998'' and inserting ''September 30, 1995''.

(d) REPEAL OF FDIC PROGRAM AND TRANSFER OF WINDUP AUTHORITY TO HUD.—

(1) REPEAL.—Section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q) is hereby repealed.

(2) TRANSFER OF WINDUP AUTHORITY.—Notwithstanding paragraph (1)—

(A) effective December 31, 1995, the Secretary shall carry out any remaining authority and responsibilities of the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act to recapture excess proceeds from resale of properties and to monitor and enforce low-income occupancy requirements or rent limitations under such section and shall assume any direct or contingent liability of the Corporation to carry out such authority and responsibilities; and

(B) the Federal Deposit Insurance Corporation shall consummate any sales of property under section 40 of such Act that were pending under contracts of sale on September 30, 1995.

(e) FDIC DISPOSITION OF ASSETS AS CONSERVATOR OR RECEIVER.—Section 11(d)(13)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(13)(E)) is amended—

(1) in clause (iii), by inserting ''and'' after the semicolon;

(2) in clause (iv), by striking ''; and'' and inserting a period; and

(3) by striking clause (v).

(f) DISPOSITION OF FDIC ASSETS.—Section 13(d)(3)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1823(d)(3)(D)) is amended—

(1) in clause (iii), by inserting ''and'' after the semicolon;

(2) in clause (iv), by striking ''; and'' and inserting a period; and

(3) by striking clause (v).

SEC. 2102. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) FORECLOSURE AVOIDANCE.—The last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: '': *And provided further*, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review''.

(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

''AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

''SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary, except that—

''(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

''(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

''(b) ASSIGNMENT.—

''(1) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

''(2) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

''(A) the mortgage was in default;

''(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and

''(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

''(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not

exceed the amount necessary to compensate the mortgagee for the assignment and any losses and expenses resulting from the mortgage modification.

''(c) PROHIBITION OF JUDICIAL REVIEW.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.''.

(c) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary of Housing and Urban Development, before the date of the enactment of this Act, for assignment pursuant to section 230(b) of the National Housing Act shall continue to be governed by the provisions of such section, as in effect immediately before such date of enactment.

(d) APPLICABILITY OF OTHER LAWS.—No provision of the National Housing Act or any other law shall be construed to require the Secretary of Housing and Urban Development to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under the National Housing Act, or to accept assignments of such mortgages.

SEC. 2103. REFORM OF HUD-OWNED MULTIFAMILY PROPERTY DISPOSITION PROGRAM.

(a) IN GENERAL.—Effective October 1, 1995, section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11) is amended to read as follows:

''SEC. 203. MANAGEMENT AND DISPOSITION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS.

''(a) IN GENERAL.—The Secretary of Housing and Urban Development may manage and dispose of (1) multifamily housing projects that are owned by the Secretary or that are subject to mortgages held by the Secretary, and (2) mortgages on multifamily housing projects that are held by the Secretary, without regard to any other provision of law.

''(b) AUTHORITY TO DELEGATE.—The Secretary of Housing and Urban Development may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages on multifamily housing projects held by the Secretary.

''(c) DEFINITION.—For purposes of this section, the term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.''.

(b) CONFORMING AMENDMENTS.—

(1) NONDISCRIMINATION AGAINST CERTIFICATE AND VOUCHER HOLDERS.—Section 183(c) of the Housing and Community Development Act of 1987 (42 U.S.C. 1437f note) is amended by striking ''section 203(i)(2) of the Housing and Community Development Amendments of 1978, as amended by section 181(h) of this Act'' and inserting ''section 203(b) of the Housing and Community Development Amendments of 1978 (as in effect before October 1, 1995)''.

(2) LIHPRH ACT OF 1990.—Section 212(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4102(c)) is amended by striking the last sentence.

(3) HOPE HOMEOWNERSHIP PROGRAM.—Section 427 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12877) is amended by striking ''subject to—'' and all that follows and inserting ''subject to the Low-Income Housing Preservation and Resident Homeownership Act of 1990.''.

(4) FHA MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(k) of the National Housing Act (12 U.S.C. 1713(k)) is amended by striking the third sentence.

(5) MULTIFAMILY MORTGAGE FORECLOSURE ACT OF 1981.—Section 367(b)(2) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C.3706(b)(2)) is amended—

(A) by striking subparagraph (B); and

(B) by striking ''(A)''.

(6) PREVENTING MORTGAGE DEFAULTS ON INSURED MULTIFAMILY PROJECTS.—Section 103(h)(2)(B) of the Multifamily Housing Property Disposition Reform Act of 1994 (12 U.S.C. 1715z–1a note) is amended by inserting ''(as in effect before October 1, 1995)'' after ''1978''.

SEC. 2104. RECAPTURE OF RURAL HOUSING LOAN SUBSIDIES BY RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE.

The first sentence of section 521(a)(1)(D)(i) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(1)(D)(i)) is amended by inserting ''upon the repayment of any loan made under this title or'' after ''assistance rendered''.

SEC. 2105. REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS FOR UNITS WITHOUT TENANT TURNOVER.

Paragraph (2)(A) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by striking the last sentence.

Subtitle B—Thrift Charter Conversion

SEC. 2200. SHORT TITLE.

This subtitle may be cited as the ''Thrift Charter Conversion Act of 1995''.

CHAPTER 1—BANK INSURANCE FUND AND SAVINGS ASSOCIATION INSURANCE FUND

SEC. 2201. SPECIAL ASSESSMENT.

Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(1) by redesignating clauses (i), (ii), and (iii) of subparagraph (A) as subclauses (I), (II), and (III), respectively;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by moving the left margin of such clauses and subclauses (as so redesignated) 2 ems to the right;

(4) by striking ''SPECIAL ASSESSMENTS.—In addition to'' and inserting ''SPECIAL ASSESSMENTS.—

''(A) IN GENERAL.—In addition to''; and

(5) by adding at the end the following new subparagraphs:

''(B) SINGLE ADDITIONAL SPECIAL ASSESSMENT WITH RESPECT TO CERTAIN ACCOUNTS.—

''(i) IN GENERAL.—The Corporation shall impose, on the basis of such factors as the Board of Directors considers to be appropriate, a single special assessment on the institutions described in the following subclauses (other than institutions exempt under subparagraph (C)):

''(I) Each Savings Association Insurance Fund member (including any Savings Association Insurance Fund member referred to in section 5(d)(2)(G)).

''(II) Each Bank Insurance Fund member which has deposits which are treated, under section 5(d)(3), as deposits which are insured by the Savings Association Insurance Fund.

''(ii) AMOUNT OF ASSESSMENT.—The assessment imposed under clause (i) shall be in an amount equal to such percentage of the Savings Association Insurance Fund assessment base (of the institutions subject to such assessment) as of March 31, 1995, as the Board of Directors determines, in the Board of Directors' discretion, to be necessary in order for the reserve ratio of the Savings Association Insurance Fund to meet the designated reserve ratio on the 1st business day of January, 1996.

''(iii) DEPOSIT OF ASSESSMENT.—Notwithstanding any other provision of law, the proceeds of any assessment imposed under clause (i) shall be deposited in the Savings Association Insurance Fund.

''(iv) DATE PAYMENT DUE.—The special assessment imposed under this subparagraph shall be—

''(I) due on the 1st business day of January, 1996; and

''(II) paid to the Corporation on the later of the due date or such other date as the Corporation may prescribe which may not be later than the end of the 60-day period beginning on the date of the Thrift Charter Conversion Act of 1995.

''(v) SAVINGS ASSOCIATION INSURANCE FUND ASSESSMENT BASE DEFINED.—For purposes of this subparagraph, the term Savings Association Insurance Fund assessment base means—

''(I) the assessment base of Savings Association Insurance Fund members on which assessments are imposed under the risk-based assessment system established pursuant to paragraph (1); and

''(II) in the case of an institution described in clause (i)(II), the adjusted attributable deposit amount determined under subparagraph (C) of section 5(d)(3) for purposes of subparagraph (B)(i) of such section.

''(C) SPECIAL RULES FOR CERTAIN EXEMPT INSTITUTIONS.—

''(i) IN GENERAL.—The Board of Directors may exempt any weak insured depository institution from the payment of the assessment imposed under subparagraph (B)(i) if the exemption would reduce risk to the Savings Association Insurance Fund.

''(ii) CONTINUATION OF ASSESSMENT RATES APPLICABLE AS OF JUNE 30, 1995.—Notwithstanding any other provision of this subsection or any determination by the Corporation pursuant to paragraph (2), the semiannual assessment rate applicable under paragraph (2) during the period beginning on January 1, 1996, and ending on December 31, 1999, with respect to any insured depository institution which receives an exemption under clause (i) shall be the semiannual assessment rate which would be applicable to such institution under paragraph (2) if such assessment rate were calculated in the manner in which semiannual assessment rates for Savings Association Insurance Fund members were determined by the Corporation under such paragraph as of June 30, 1995.

''(iii) SPECIAL RULE FOR OAKAR BANKS.—If an insured depository institution to which clause (ii) applies is an institution described in subparagraph (B)(i)(II), section 5(d)(3) (as in effect on September 13, 1995) shall continue to apply with respect to such institution for purposes of clause (ii) without regard to the repeal of such section by section 2202(c) of the Thrift Charter Conversion Act of 1995.

''(iv) DEPOSIT OF ASSESSMENT.—Assessments imposed under paragraph (2) in accordance with clause (i) on depository institutions to which such clause applies shall be deposited—

''(I) in the Savings Association Insurance Fund until such fund is merged into the deposit insurance fund pursuant to section 2203(a)(2) of the Thrift Charter Conversion Act of 1995; and

''(II) after such merger, in the deposit insurance fund.

''(v) GUIDELINES.—

''(I) GUIDELINES REQUIRED.—Not later than 30 days after the date of the enactment of the Thrift Charter Conversion Act of 1995, the Board of Directors shall prescribe guidelines containing the criteria to be used by the Board of Directors in making any determination under clause (i).

''(II) PUBLICATION.—The guidelines prescribed under subclause (I) shall be published in the Federal Register.

''(D) PRO RATA PAYMENT OF SPECIAL ASSESSMENT BY EXEMPT INSTITUTIONS AUTHORIZED.—In the case of any depository institution

which receives an exemption under subparagraph (C)(i) from the special assessment imposed under subparagraph (B) and any successor to such institution, subparagraph (C)(ii) shall cease to apply with respect to such institution as of the date on which the institution makes a payment to the Corporation, on such terms as the Board of Directors may prescribe, in an amount equal to the product of—

''(i) 12.5 percent of the product of—

''(I) the Savings Association Insurance Fund assessment base of the institution which would have been used in the calculation of the amount of such special assessment if the institution had not received the exemption from such assessment; and

''(II) the percentage rate calculated by the Board of Directors under subparagraph (B)(ii) for use in determining the amount of the special assessment for depository institutions which did not receive an exemption under subparagraph (C); and

''(ii) the whole number of full semiannual periods which begin after the date of such payment and end before January 1, 2000.

''(E) ASSESSMENT FOR CERTAIN DEPOSITS.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, in carrying out the special assessment under subparagraph (B), the Corporation may set assessment rates on the basis of the factors described in clause (iii) for deposits treated under section 5(d)(3) as deposits insured by the Savings Association Insurance Fund.

''(ii) MINIMUM RATE.—Notwithstanding clause (i), any rate assessed under such clause may not be less than ⅔ of the assessment rate imposed under subparagraph (B).

''(iii) FACTORS.—In setting any assessment rate under clause (i), the Corporation shall consider the following factors:

''(I) The extent to which deposits treated under section 5(d)(3) as deposits insured by the Savings Association Insurance Fund do not reflect the actual amount of deposits insured by such fund because of the growth attribution rule contained in clause (iii) of such section.

''(II) The ability of an insured depository institution to demonstrate with deposit data the amount of actual deposits which should be treated as deposits insured by the Savings Association Insurance Fund notwithstanding the growth attribution rule referred to in subclause (I).

''(iv) NO NET BUDGET EFFECT.—Notwithstanding any other provision of this subparagraph, the Corporation shall not set any assessment rate under clause (i) that would result in an increased budget outlay or a decrease in offsetting receipts under this paragraph.''.

SEC. 2202. ASSESSMENTS ON INSURED DEPOSITORY INSTITUTIONS.

(a) FINANCING CORPORATION ASSESSMENTS ON ALL FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 21(f) of the Federal Home Loan Bank Act (12 U.S.C. 1441(f)) is amended—

(1) in the portion of paragraph (2) which precedes subparagraph (A)—

(A) by striking ''each Savings Association Insurance Fund member'' and inserting ''each insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act)''; and

(B) by striking ''such members'' and inserting ''such institutions''; and

(2) by striking '', except that—'' and all that follows through the end of the paragraph and inserting '', except that the Financing Corporation shall have first priority to make the assessment.''.

(b) ASSESSMENT RATES FOR SAIF MEMBERS MAY NOT BE LESS THAN ASSESSMENT RATES FOR BIF MEMBERS.—Section 7(b)(2)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(F)) is amended—

(1) by striking ''and'' at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting ''; and''; and

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

''(iii) notwithstanding any other provision of this subsection, assessment rates for Savings Association Insurance Fund members may not be less than assessment rates for Bank Insurance Fund members.''.

(c) REPEAL OF EXIT MORATORIUM AND OAKAR BANK PROVISIONS.—Effective January 1, 1998, section 5(d) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)) is amended by striking paragraphs (2) and (3).

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7(b)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(D)) is amended by striking ''Savings Association Insurance Fund members'' and inserting ''members of a deposit insurance fund''.

(2) Section 21(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441(k)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (d) shall take effect on January 1, 1996.

SEC. 2203. MERGER OF BANK INSURANCE FUND AND SAVINGS ASSOCIATION INSURANCE FUND AFTER RECAPITALIZATION OF SAIF.

(a) ESTABLISHMENT OF DEPOSIT INSURANCE FUND.—

(1) IN GENERAL.—Effective January 1, 1998, section 11(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(5)) is amended to read as follows:

''(5) DEPOSIT INSURANCE FUND.—

''(A) ESTABLISHMENT.—There is established a fund to be known as the deposit insurance fund which shall—

''(i) be maintained and administered by the Corporation; and

''(ii) initially consist of the assets and liabilities of the Bank Insurance Fund and Savings Association Insurance Fund which have been merged by the Corporation into the deposit insurance fund pursuant to section 2203(a)(2) of the Thrift Charter Conversion Act of 1995, other than any assets of the Savings Association Insurance Fund which have been deposited in the special reserve of the deposit insurance fund pursuant to section 2203(b)(2) of such Act.

''(B) USES.—The deposit insurance fund shall be available to the Corporation for use in carrying out the insurance purposes of the Corporation in accordance with this Act with respect to insured depository institutions.

''(C) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited into the deposit insurance fund.''.

(2) MERGER BY CORPORATION.—Except with respect to any assets of the Savings Association Insurance Fund which are required to be deposited in the special reserve of the deposit insurance fund pursuant to subsection (b)(2), the Corporation shall merge the Bank Insurance Fund and the Savings Association Insurance Fund on January 1, 1998, into the deposit insurance fund established by the amendment made by paragraph (1).

(b) ESTABLISHMENT OF SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—

(1) IN GENERAL.—Effective January 1, 1998, section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended to read as follows:

''(6) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—

''(A) IN GENERAL.—There is established a fund to be known as the special reserve of the deposit insurance fund which shall—

''(i) be maintained and administered by the Corporation; and

''(ii) initially consist of amounts deposited in the special reserve pursuant to section 2203(b)(2) of the Thrift Charter Conversion Act of 1995.

''(B) EMERGENCY USE OF SPECIAL RESERVE.—

''(i) USE AUTHORIZED.—Subject to clause (ii) and notwithstanding subparagraph (C), the Corporation may, in the sole discretion of the Board of Directors, transfer amounts from the special reserve for deposit in the deposit insurance fund for use in accordance with paragraph (5)(B).

''(ii) CONDITIONS ON TRANSFER.—The Board of Directors may authorize a transfer under clause (i) only if—

''(I) the Board of Directors determines that the reserve ratio of the deposit insurance fund is less than 50 percent of the designated reserve ratio; and

''(II) the Board of Directors finds that the reserve ratio of the deposit insurance will likely be less than the designated reserve ratio of the fund for each of the 4 calendar quarters beginning after the date of such determination.

''(C) NO REFUNDS OR OTHER USES AUTHORIZED.—Except as provided in subparagraph (B), the Corporation may not make any payment from the special reserve, make any refund or provide any credit to any insured depository institution with respect to any amount in the special reserve, or use any amount in the special reserve for any other purpose (including the use of any such amount as security for the repayment of any obligation of the Corporation).

''(D) EXCLUSION OF SPECIAL RESERVE IN CALCULATING THE RESERVE RATIO.—No amount in the special reserve may be taken into account in calculating the reserve ratio of the deposit insurance fund under section 7.''.

(2) TRANSFER AND DEPOSIT BY CORPORATION.—If, at the time of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to subsection (a)(2), the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the Corporation shall transfer from such fund to the special reserve of the deposit insurance fund established by the amendment made by paragraph (1) an amount equal to the amount which causes the reserve ratio of the Savings Association Insurance Fund to exceed the designated reserve ratio.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended by striking ''the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate'' and inserting ''the deposit insurance fund established under section 11(a)(5)''.

(2) Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by striking paragraphs (4)(A) and (7).

(3) Section 5(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(1)) is amended—

(A) in subparagraph (A), by striking ''reserve ratios'' and all that follows through the period and inserting ''the reserve ratio of the deposit insurance fund.'';

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

(4) Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by striking subsection (l).

(5) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by striking subparagraphs (B), (F), and (G);

(B) in clauses (i) and (iv) of subparagraph (A), by striking ''each deposit insurance fund'' and inserting ''the deposit insurance fund'';

(C) in subparagraph (A)(iii), by striking ''a deposit insurance fund'' and inserting ''the deposit insurance fund''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) RESERVE RATIO DEFINED.—For purposes of this subsection, the term 'reserve ratio' means the ratio of the net worth of the deposit insurance fund to the aggregate estimated insured deposits held in all insured depository institutions.''.

(6) Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended—

(A) in subparagraph (A) by striking ''any deposit insurance fund'' and inserting ''the deposit insurance fund''; and

(B) by striking subparagraphs (C) and (D).

(7) Subparagraph (A) of section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) (as so redesignated by section 2201 of this subtitle) is amended—

(A) in clause (i)—

(i) by inserting ''or'' after the semicolon at the end of subclause (I);

(ii) by striking subclause (II); and

(iii) by striking ''; and'' at the end of subclause (III) and inserting a period; and

(B) by striking clause (ii).

(8) Section 11(a)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(B)) is amended by striking ''Bank Insurance Fund and the Savings Association Insurance Fund'' and inserting ''deposit insurance fund''.

(9) Paragraph (1) of section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) is amended by striking ''depositor, except that—'' and all that follows through the period at the end of the paragraph and inserting ''depositor.''.

(10) Section 11(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i)(3)) is amended—

(A) by striking subparagraph (B); and

(B) in subparagraph (C), by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraph (A)''.

(11) Section 11A(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)(3)) is amended by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''deposit insurance fund''.

(12) Section 11A(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(f)) is amended by striking ''Savings Association Insurance Fund'' and inserting ''deposit insurance fund''.

(13) Section 13(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1823(a)(1)) is amended by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''deposit insurance fund, the special reserve of the deposit insurance fund,''.

(14) Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended—

(A) by striking ''appropriate insurance fund'' and inserting ''deposit insurance fund'';

(B) by striking ''the members of the insurance fund (of which such institution is a member)'' and inserting ''insured depository institutions'';

(C) by striking ''each member's'' and inserting ''each insured depository institution's''; and

(D) by striking ''the member's'' each place such term appears and inserting ''the institution's''.

(15) Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by striking paragraph (11).

(16) Section 13(h) of the Federal Deposit Insurance Act (12 U.S.C. 1823(h)) is amended by striking ''Bank Insurance Fund'' and inserting ''deposit insurance fund''.

(17) Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—

(A) by striking ''Bank Insurance Fund or the Savings Association Insurance Fund'' and inserting ''deposit insurance fund''; and

(B) by striking ''each such fund'' and inserting ''the fund''.

(18) Section 14(b) of the Federal Deposit Insurance Act (12 U.S.C. 1824(b)) is amended by striking ''Bank Insurance Fund or Savings Association Insurance Fund'' and inserting ''deposit insurance fund''.

(19) Section 14(c) of the Federal Deposit Insurance Act (12 U.S.C. 1824(c)) is amended by striking paragraph (3).

(20) Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by striking subsection (d).

(21) Section 15(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)(5)) is amended—

(A) by striking ''Bank Insurance Fund or Savings Association Insurance Fund, respectively,'' and inserting ''deposit insurance fund'';

(B) by striking ''Bank Insurance Fund or Savings Association Insurance Fund, respectively;'' and inserting ''deposit insurance fund;''; and

(C) by striking ''Bank Insurance Fund or the Savings Association Insurance Fund, respectively,'' and inserting ''deposit insurance fund,''.

(22) Section 17(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)(1)) is amended by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' each place such term appears and inserting ''deposit insurance fund''.

(23) Section 17(d) of the Federal Deposit Insurance Act (12 U.S.C. 1827(d)) is amended by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' each place such term appears and inserting ''deposit insurance fund''.

(24) The heading for section 17(a) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)) is amended by striking ''BIF, SAIF,'' and inserting ''THE DEPOSIT INSURANCE FUND''.

(25) Subsections (a)(1) and (d)(1)(A) of section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a) are each amended by striking ''appropriate''.

(26) Section 24(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(e)(2)) is amended—

(A) in subparagraph (A), by striking ''of which such banks are members''; and

(B) in subparagraph (B)(ii), by striking ''of which such bank is a member''.

(27) Section 24(f)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(f)(6)(B)) is amended by striking ''of which such bank is a member''.

(28) Section 31 of the Federal Deposit Insurance Act (12 U.S.C. 1831h) is hereby repealed.

(29) Section 36(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)(3)) is amended by striking ''affected''.

(30) Section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) is amended by striking subsection (o).

(31) Section 21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended to read as follows:

''(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—To the extent the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation each calendar year an amount equal to 23.7 percent of the bank's net earnings for the year for which such amount is required to be paid.''.

(d) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by subsection (c) shall take effect on January 1, 1998.

SEC. 2204. REFUND OF AMOUNTS IN DEPOSIT INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE AMOUNT.

Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

''(e) REFUNDS.—

''(1) OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

''(A) refund the amount of the excess payment to the insured depository institution; or

''(B) credit such excess amount toward the payment of subsequent semiannual assessments until such credit is exhausted.

''(2) BALANCE IN INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE.—

''(A) IN GENERAL.—Subject to subparagraph (B), if as of the end of any semiannual period the amount of the actual reserves in—

''(i) the Bank Insurance Fund (until the merger of such fund into the deposit insurance fund pursuant to section 2203(a)(2) of the Thrift Charter Conversion Act of 1995); or

''(ii) the deposit insurance fund (after the establishment of such fund under section 2203(a)(1) of such Act),

exceeds the balance required to meet the designated reserve ratio applicable with respect to such fund, such excess amount shall be refunded to members of the fund by the Corporation on such basis as the Board of Directors determines to be appropriate, taking into account the factors considered under the risk-based assessment system.

''(B) REFUND NOT TO EXCEED PREVIOUS SEMIANNUAL ASSESSMENT.—The amount of any refund under this paragraph to any member of a deposit insurance fund for any semiannual period may not exceed the total amount of assessments paid by such member to the insurance fund with respect to such period.''.

SEC. 2205. ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO MAINTAIN THE RESERVE RATIO OF A DEPOSIT INSURANCE FUND.

(a) IN GENERAL.—Section 7(b)(2)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i)) is amended in the portion of such section preceding subclause (I) by inserting ''when necessary, and only to the extent necessary'' after ''insured depository institutions''.

(b) LIMITATION ON ASSESSMENT.—Section 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(iii)) is amended to read as follows:

''(iii) LIMITATION ON ASSESSMENT.—The Board of Directors shall not set semiannual assessments with respect to a deposit insurance fund in excess of the amount needed—

''(I) to maintain the reserve ratio of the fund at the designated reserve ratio; or

''(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio.''.

CHAPTER 2—STATUS OF BANKS AND SAVINGS ASSOCIATIONS

SEC. 2221. TERMINATION OF FEDERAL SAVINGS ASSOCIATIONS; TREATMENT OF STATE SAVINGS ASSOCIATIONS AS BANKS FOR PURPOSES OF FEDERAL BANKING LAW.

(a) TERMINATION OF FEDERAL SAVINGS ASSOCIATION CHARTERS.—

(1) IN GENERAL.—Each Federal savings association shall—

(A) convert to a national bank charter;

(B) convert to a State depository institution charter; or

(C) surrender the charter of such savings association and liquidate the institution.

(2) CONVERSION TO NATIONAL BANK BY OPERATION OF LAW.—If any Federal savings association has not taken any action required under paragraph (1) as of January 1, 1998, the savings association shall—

(A) become a national bank on such date by operation of law;

(B) immediately file articles of association and an organizational certificate with the Comptroller of the Currency in accordance with sections 5133, 5134, and 5135 of the Revised Statutes of the United States; and

(C) cease to exist as a Federal savings association as of such date.

(3) PROHIBITION ON NEW CHARTERS OF FEDERAL SAVINGS ASSOCIATIONS.—The Director of the Office of Thrift Supervision may not grant any charter for a Federal savings association for which an application was received after the date of the enactment of this Act.

(b) TREATMENT OF STATE SAVINGS ASSOCIATIONS AS BANKS FOR PURPOSES OF FEDERAL BANKING LAW.—

(1) AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(A) by striking paragraph (2) of subsection (a) and inserting the following new paragraph:

''(2) STATE BANK.—

''(A) IN GENERAL.—The term 'State bank' means any bank, banking association, trust company, savings bank, industrial bank (or similar depository institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank), building and loan association, savings and loan association, homestead association, cooperative bank, or other banking institution—

''(i) which is engaged in the business of receiving deposits, other than trust funds (as defined in this section); and

''(ii) which—

''(I) is incorporated under the laws of any State;

''(II) is organized and operating according to the laws of the State in which such institution is chartered or organized; or

''(III) is operating under the Code of Law for the District of Columbia (except a national bank).

''(B) CERTAIN INSURED BANKS INCLUDED.—The term 'State bank' includes any cooperative bank or other unincorporated bank the deposits of which were insured by the Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

''(C) CERTAIN UNINSURED BANKS EXCLUDED.—The term 'State bank' does not include any cooperative bank or other unincorporated bank the deposits of which were not insured by the Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.''; and

(B) in subsection (q)—

(i) by inserting ''and'' after the semicolon at the end of paragraph (2);

(ii) by striking ''; and'' at the end of paragraph (3) and inserting a period; and

(iii) by striking paragraph (4).

(2) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(A) by striking subparagraph (E) of subsection (a)(5); and

(B) by striking subparagraphs (B) and (J) of subsection (c)(2).

(3) AMENDMENTS TO THE FEDERAL RESERVE ACT.—The 2d and 3d paragraphs of the 1st section of the Federal Reserve Act (12 U.S.C. 221) are each amended by inserting ''(as defined in section 3(a)(2) of the Federal Deposit Insurance Act)'' after ''State bank''.

SEC. 2222. TREATMENT OF CERTAIN ACTIVITIES AND AFFILIATIONS OF BANK HOLDING COMPANIES RESULTING FROM THIS ACT.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

''(k) TREATMENT OF COMPANIES RESULTING FROM SAVINGS AND LOAN HOLDING COMPANIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section (other than paragraph (5)) or any other provision of Federal law including sections 20 and 32 of the Banking Act of 1933, a qualified bank holding company may, after such company becomes a bank holding company—

''(A) maintain or enter into any nonbanking affiliation which such company was authorized to maintain or enter into as of September 22, 1995, or was authorized to maintain following a merger of insured depository institution subsidiaries pursuant to an application filed no later than such date; and

''(B) engage, directly or through any affiliate described in subparagraph (A) which is not a bank, in any activity in which such company or any affiliate described in subparagraph (A) was authorized to engage as of September 22, 1995, or in which such company was authorized to engage following a merger of insured depository institution subsidiaries pursuant to an application filed no later than such date,

if the requirements of paragraph (4) are met.

''(2) QUALIFIED BANK HOLDING COMPANY DEFINED.—For purposes of this subsection, the term 'qualified bank holding company' means—

''(A) any company which—

''(i) as of September 13, 1995, is a savings and loan holding company and is not a bank holding company; and

''(ii) becomes a bank holding company after such date; and

''(B) any bank holding company which as of September 13, 1995—

''(i) is a savings and loan holding company; and

''(ii) is exempt from this section pursuant to an order issued by the Board under subsection (d).

''(3) NO LOSS OF SUBSECTION (d) EXEMPTION.—No qualified bank holding company described in paragraph (2)(B) shall lose the grounds for the exemption under subsection (d) because a savings association which such company controlled, directly or indirectly, as of September 13, 1995, becomes a bank after such date so long as such bank continues to meet the requirements of subparagraphs (A) and (B) of paragraph (4).

''(4) PREREQUISITES FOR CONTINUATION OF GRANDFATHERED ACTIVITIES AND AFFILIATIONS.—This subsection shall cease to apply with respect to a qualified bank holding company if, at any time after such company first meets the definition of a qualified bank holding company—

''(A) any insured depository institution controlled by such company which, as of the day before the company first meets the definition of a qualified bank holding company, was subject to the requirements contained in section 10(m) of the Home Owners' Loan Act, as in effect on such date, (and regulations in effect on such date under such section) for treatment as a qualified thrift lender under such section fails to meet such requirements;

''(B) any insured depository institution controlled by such company fails to comply with any limitation or restriction on the type or amounts of loans or investments of the institution to which such institution was subject as of the date of the enactment of the Thrift Charter Conversion Act of 1995; or

''(C) the company or any subsidiary of the company acquires more than 5 percent of the shares or assets of any bank or insured institution after September 13, 1995.

''(5) NONTRANSFERABLE.—This subsection shall not apply with respect to any qualified bank holding company if, after September 13, 1995, any person acquires, directly or indirectly, control of the company or the company is the subject of any merger, consolidation, or other similar transaction.

''(6) PROHIBITION ON CERTAIN INSURED DEPOSITORY INSTITUTIONS IDENTIFYING THEMSELVES AS NATIONAL BANKS.—

''(A) IN GENERAL.—Notwithstanding the requirement of section 5134 of the Revised Statutes of the United States—

''(i) the name of an insured depository institution subsidiary of a qualified bank holding company which—

''(I) as of the date of the enactment of the Thrift Charter Conversion Act of 1995, is a savings and loan holding company described in section 10(c)(3) of the Home Owners' Loan Act (as in effect on such date); and

''(II) is subject to the restrictions contained in paragraph (3),

may not include the term 'national'; and

''(ii) such insured depository institution may not be identified as a national bank on any sign displayed by the institution or in any advertisement or other publication of the institution.

''(B) DEPOSITORY INSTITUTION NOT LIABLE FOR FRAUDULENT MISREPRESENTATION FOR NOT REPRESENTING ITSELF AS A NATIONAL BANK.—An insured depository institution which is subject to subparagraph (A) shall not be liable for any civil or criminal penalty under any Federal or State consumer protection law, or in any criminal or civil action, for fraudulently misrepresenting the nature of the charter of the institution, for falsely advertising the status of the institution, for making a false statement with respect to the status of the institution, or for any similar offense by reason of the institution's compliance with such subparagraph.

''(7) ENFORCEMENT.—In addition to any other power of the Board, the Board may enforce compliance with the provisions of this subsection with respect to any qualified bank holding company and any bank controlled by such company under section 8 of the Federal Deposit Insurance Act.''.

SEC. 2223. TRANSITION PROVISIONS FOR ACTIVITIES OF SAVINGS ASSOCIATIONS WHICH CONVERT INTO OR BECOME TREATED AS BANKS.

Notwithstanding any other provision of Federal law, any insured depository institution which, as of September 13, 1995, is a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (as in effect on such date)) and after such date converts to a national or State bank charter or becomes treated as a State bank pursuant to the amendment made by section 2221(b) may continue to engage, directly or indirectly, in any activity in which such institution was lawfully engaged as of such date during the 5-year period beginning on the effective date of such conversion or the effective date of such amendments, as the case may be.

SEC. 2224. REGISTRATION OF BANK HOLDING COMPANIES RESULTING FROM CONVERSIONS OF SAVINGS ASSOCIATIONS TO BANKS OR TREATMENT OF SAVINGS ASSOCIATIONS AS BANKS.

Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsections:

''(h) REGISTRATION OF CERTAIN BANK HOLDING COMPANIES.—A company which, as of September 13, 1995, is a savings and loan holding company (as defined in section 10(a)(1)(D) of Home Owners' Loan Act (as in effect on such date)) and is not a bank holding company shall not be required to obtain the approval of the Board under subsection (a) to become a bank holding company after September 13, 1995, as a result of the conversion of any insured depository institution subsidiary of such company into a bank or by virtue of the treatment of any insured depository institution subsidiary of such company as a bank pursuant to the amendments made by the Thrift Charter Conversion Act of 1995, if such company—

''(1) registers as a bank holding company with the Board in accordance with section 5(a); and

''(2) does not acquire, directly or indirectly, ownership or control of any additional insured depository institution or other company in connection with such conversion or treatment.

''(i) REGULATION OF QUALIFIED BANK HOLDING COMPANIES.—The Board shall regulate qualified bank holding companies (as defined in section 4(k)(2)) in a manner consistent with—

''(1) the regulation of such companies by the Director of the Office of Thrift Supervision before the date of the enactment of the Thrift Charter Conversion Act of 1995; and

''(2) the safety and soundness of insured depository institution subsidiaries of such companies.''.

SEC. 2225. ADDITIONAL TRANSITION PROVISIONS AND SPECIAL RULES.

(a) MUTUAL NATIONAL BANKS AUTHORIZED; CONVERSION OF MUTUAL SAVINGS ASSOCIATIONS INTO NATIONAL BANKS.—

(1) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5133 the following new section:

''SEC. 5133A. MUTUAL NATIONAL BANKS.

''(a) IN GENERAL.—Notwithstanding the paragraph designated the ''Third'' of section 5134, the Comptroller of the Currency may charter national banks organized in the mutual form either de novo or through a conversion of any stock national or State bank (as defined in section 3 of the Federal Deposit Insurance Act) or any State mutual bank or credit union, subject to regulations prescribed by the Comptroller of the Currency in accordance with this section.

''(b) REGULATIONS.—

''(1) TRANSITION RULES.—National banks organized in the mutual form shall be subject to the regulations of the Director of the Office of Thrift Supervision governing corporate organization, governance, and conversion of mutual institutions, as in effect on September 13, 1995, including parts 543, 544, 546, 563b, and 563c of chapter V of title 12 of the Code of Federal Regulations (as in effect on such date), during the 3-year period beginning on the date of the enactment of the Thrift Charter Conversion Act of 1995.

''(2) REGULATIONS OF THE COMPTROLLER.—The Comptroller of the Currency shall prescribe appropriate regulations for national banks organized in the mutual form, effective as of the end of the 3-year period referred to in paragraph (1).

''(3) APPLICABILITY OF CAPITAL STOCK REQUIREMENTS.—The Comptroller of the Currency shall prescribe regulations regarding the manner in which requirements of title LXII of the Revised Statutes of the United States with respect to capital stock, and limitations imposed on national banks under such title based on capital stock, shall apply to national banks organized in mutual form pursuant to subsection (a).

''(c) CONVERSIONS.—

''(1) CONVERSION TO STOCK NATIONAL BANK.—Subject to subsection (b)(1) and, after the end of the 3-year period referred to in such subsection, such regulations as the Comptroller of the Currency may prescribe for the protection of depositors' rights and for any other purpose the Comptroller of the Currency may consider appropriate, any national bank which is organized in mutual form pursuant to paragraph (1) may reorganize as a stock national bank.

''(2) CONVERSIONS TO STATE BANKS.—Any national mutual bank may convert to a State bank charter in accordance with regulations prescribed by the Comptroller of the Currency and applicable State law.''.

(2) MUTUAL BANK HOLDING COMPANIES.—Subsection (g) of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)) is amended to read as follows:

''(g) MUTUAL BANK HOLDING COMPANIES.—

''(1) IN GENERAL.—A national mutual bank may reorganize so as to become a holding company by—

''(A) chartering an interim national bank, the stock of which is to be wholly owned, except as otherwise provided in this section, by the national mutual bank; and

''(B) transferring the substantial part of the national mutual bank's assets and liabilities, including all of the bank's insured liabilities, to the interim national bank.

''(2) DIRECTORS AND CERTAIN ACCOUNT HOLDERS' APPROVAL OF PLAN REQUIRED.—A reorganization is not authorized under this subsection unless—

''(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the national mutual bank; and

''(B) in the case of a national mutual bank in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the bank's charter and bylaws.

''(3) NOTICE TO THE BOARD; DISAPPROVAL PERIOD.—

''(A) NOTICE REQUIRED.—

''(i) IN GENERAL.—At least 60 days before taking any action described in paragraph (1), a national mutual bank seeking to establish a mutual holding company shall provide written notice to the Board.

''(ii) CONTENTS OF NOTICE.—The notice shall contain such relevant information as the Board shall require by regulation or by specific request in connection with any particular notice.

''(B) TRANSACTION ALLOWED IF NOT DISAPPROVED.—Unless the Board within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the national mutual bank providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

''(C) GROUNDS FOR DISAPPROVAL.—The Board may disapprove any proposed holding company formation only if—

''(i) such disapproval is necessary to prevent unsafe or unsound practices;

''(ii) the financial or management resources of the national mutual bank involved warrant disapproval;

''(iii) the national mutual bank fails to furnish the information required under subparagraph (A); or

''(iv) the national mutual bank fails to comply with the requirement of paragraph (2).

''(D) RETENTION OF CAPITAL ASSETS.—In connection with the transaction described in paragraph (1), a national mutual bank may, subject to the approval of the Board, retain capital assets at the holding company level to the extent that the capital retained at the holding company is in excess of the amount of capital required in order for the interim national bank to meet all relevant capital standards established by the Comptroller of the Currency for national banks.

''(4) OWNERSHIP.—

''(A) IN GENERAL.—Persons having ownership rights in the national mutual bank under section 5133A of the Revised Statutes of the United States (including paragraph 575.5 of chapter V of title 12 of the Code of Federal Regulations, as in effect on September 13, 1995, and applicable to national mutual banks pursuant to such section) or State law shall have the same ownership rights with respect to the mutual holding company.

''(B) HOLDERS OF CERTAIN ACCOUNTS.—Holders of savings, demand, or other accounts of—

''(i) a national bank chartered as part of a transaction described in paragraph (1); or

''(ii) a mutual bank acquired pursuant to paragraph (5)(B),

shall have the same ownership rights with respect to the mutual holding company as persons described in subparagraph (A) of this paragraph.

''(5) PERMITTED ACTIVITIES.—A mutual holding company may engage only in the following activities:

''(A) Investing in the stock of a national or State bank.

''(B) Acquiring a mutual bank through the merger of such bank into a national bank subsidiary of such holding company or an interim national bank subsidiary of such holding company.

''(C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is a national mutual bank.

''(D) Investing in a corporation the capital stock of which is available for purchase by a national mutual bank under Federal law or under the law of any State where the home office of any subsidiary bank is located.

''(E) Engaging in the activities permitted under section 4(c).

''(6) LIMITATIONS ON CERTAIN ACTIVITIES OF ACQUIRED HOLDING COMPANIES.—

''(A) NEW ACTIVITIES.—If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

''(B) GRACE PERIOD FOR DIVESTING PROHIBITED ASSETS OR DISCONTINUING PROHIBITED ACTIVITIES.—Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall—

''(i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and

''(ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

''(7) CHARTERING AND OTHER REQUIREMENTS.—

''(A) IN GENERAL.—A mutual holding company shall be chartered by the Board and shall be subject to such regulations as the Board may prescribe.

''(B) OTHER REQUIREMENTS.—Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this Act regarding regulation of holding companies.

''(8) CAPITAL IMPROVEMENT.—

''(A) PLEDGE OF STOCK OF SAVINGS ASSOCIATION SUBSIDIARY.—This section shall not prohibit a mutual holding company from pledging all or a portion of the stock of a national bank chartered as part of a transaction described in paragraph (1) to raise capital for such bank.

''(B) ISSUANCE OF NONVOTING SHARES.—No provision of this Act shall be construed as prohibiting a national bank chartered as part of a transaction described in paragraph (1) from issuing any nonvoting shares or less than 50 percent of the voting shares of such bank to any person other than the mutual holding company.

''(9) INSOLVENCY AND LIQUIDATION.—

''(A) IN GENERAL.—Notwithstanding any provision of law, upon—

''(i) the default of any national bank—

''(I) the stock of which is owned by any mutual holding company; and

''(II) which was chartered in a transaction described in paragraph (1);

''(ii) the default of a mutual holding company; or

''(iii) a foreclosure on a pledge by a mutual holding company described in paragraph (8)(A),

a trustee shall be appointed receiver of such mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to title 11, United States Code.

''(B) DISTRIBUTION OF NET PROCEEDS.—Except as provided in subparagraph (C), the net proceeds of any liquidation of any mutual holding company pursuant to subparagraph (A) shall be transferred to persons who hold ownership interests in such mutual holding company.

''(C) RECOVERY BY CORPORATION.—If the Corporation incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company which is liquidated pursuant to subparagraph (A), the Corporation shall succeed to the ownership interests of the depositors of such savings association in the mutual holding company, to the extent of the Corporation's loss.

''(10) STATE MUTUAL BANK HOLDING COMPANY.—

''(A) IN GENERAL.—Notwithstanding any provision of Federal law, a State bank operating in mutual form may reorganize so as to form a holding company under State law.

''(B) REGULATION OF STATE MUTUAL HOLDING COMPANY.—A corporation organized as a holding company in accordance with subparagraph (A) shall be regulated on the same terms and be subject to the same limitations as any other holding company which controls a bank.

''(11) REGULATIONS.—

''(A) TRANSITION RULES.—Mutual bank holding companies organized under this subsection shall be subject to the regulations of the Director of the Office of Thrift Supervision governing corporate organization, governance, and conversion of mutual institutions, as in effect on September 13, 1995, including part 575 of chapter V of title 12 of the Code of Federal Regulations (as in effect on such date), during the 3-year period beginning on the date of the enactment of the Thrift Charter Conversion Act of 1995.

''(B) REGULATIONS OF THE BOARD.—The Board shall prescribe appropriate regulations for mutual holding companies, effective at the end of the 3-year period referred to in subparagraph (A).

''(12) DEFINITIONS.—For purposes of this subsection—

''(A) MUTUAL HOLDING COMPANY.—The term 'mutual holding company' means a corporation organized as a holding company under this subsection.

''(B) DEFAULT.—The term 'default' means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed.

''(C) NATIONAL MUTUAL BANK.—The term 'national mutual bank' means a national bank organized in mutual form under section 5133A of the Revised Statutes of the United States.''.

(3) LIMITATION ON FEDERAL REGULATION OF STATE BANKS.—Except as otherwise provided in Federal law, the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation may not adopt or enforce any regulation which contravenes the corporate governance rules prescribed by State law or regulation for State banks unless the Comptroller, Board, or Corporation finds that such Federal regulation is necessary to assure the safety and soundness of such State banks.

(4) CONVERSIONS OF MUTUAL SAVINGS ASSOCIATIONS TO MUTUAL NATIONAL BANKS BY OPERATION OF LAW.—Notwithstanding any other provision of Federal or State law, any savings association (as defined in section 3 of the Federal Deposit Insurance Act (as in effect on September 13, 1995)) which is organized in mutual form as of the date of the enactment of this Act may become a national mutual bank by operation of law if the association—

(A) files the articles of association and organization certificate with the Comptroller of the Currency before January 1, 1998, in accordance with chapter one of title LXII of the Revised Statutes of the United States; and

(B) provides such other document or information as the Comptroller of the Currency may prescribe in regulations consistent with this section and section 5133A of the Revised Statutes of the United States (as added by paragraph (1) of this subsection).

(5) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after the item relating to section 5133 the following new item:

''5133A. Mutual national banks.''.

(b) MEMBERSHIP IN FEDERAL HOME LOAN BANKS.—Any insured depository institution which—

(1) as of the date of the enactment of this Act, is a Federal savings association which, pursuant to section 6(e) of the Federal Home Loan Bank Act, may not voluntarily withdraw from membership in a Federal home loan bank; and

(2) after such date converts from a Federal savings association to a national bank,

shall continue to be subject to the prohibition under such section on voluntary withdrawal from such membership as though such bank were still a Federal savings association until the bank ceases to be a national bank.

(c) BRANCHES.—

(1) IN GENERAL.—Notwithstanding any provision of the Federal Deposit Insurance Act, the Bank Holding Company Act of 1956, or any other Federal or State law, any depository institution which—

(A) as of the date of the enactment of this Act, is a savings association; and

(B) becomes a bank before January 1, 1998, or, pursuant to the amendments made by this subsection, is treated as a bank as of such date under the Federal Deposit Insurance Act,

and any depository institution or bank holding company which acquires such depository institution, may continue, after the depository institution becomes or commences to be treated as a bank, to operate any branch which the savings association operated as a branch on September 13, 1995.

(2) NO ADDITIONAL BRANCHES.—Paragraph (1) shall not be construed as authorizing the establishment, acquisition, or operation of any additional branch of a depository institution in any State by virtue of the operation by such institution of a branch in such State pursuant to such paragraph except to the extent such establishment, acquisition, or operation is permitted under the Federal Deposit Insurance Act, Bank Holding Company Act of 1956, and any other applicable Federal or State law without regard to such branch.

(d) TRANSITION PROVISION RELATING TO LIMITATIONS ON LOANS TO 1 BORROWER.—Section 5200 of the Revised Statutes of the United States (12 U.S.C. 84) is amended by adding at the end the following new subsection:

''(e) TRANSITION PROVISION FOR SAVINGS ASSOCIATIONS CONVERTING TO NATIONAL BANKS.—In the case of any depository institution which, as of September 13, 1995, is a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (as in effect on such date)) and becomes a national bank on or before January 1, 1998, any loan, or legally binding commitment to make a loan, made or entered into by such institution which is outstanding on the date the institution becomes a national bank may continue to be held without regard to any limitation contained in this section during the 3-year period beginning on such date.''.

SEC. 2226. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) Section 3(z) of the Federal Deposit Insurance Act (12 U.S.C. 1813(z)) is amended by striking ''the Director of the Office of Thrift Supervision,''.

(2) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by striking paragraph (9).

(3) Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by striking subsection (k).

(4) Subsections (c)(2) and (i)(2) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) are each amended—

(A) in subparagraph (B), by inserting ''and'' after the semicolon;

(B) in subparagraph (C), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (D).

(5) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by striking subsection (m).

(6) The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking section 28.

(b) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—

(1) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by striking subsections (i) and (j).

(2) Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking the sentence preceding the penultimate sentence.

(3) Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(A) in paragraph (2)(A)(i), by striking ''or an insured institution'' and all that follows through ''of this subsection)'';

(B) in paragraph (2)(A)(ii)—

(i) by striking ''or a savings association'' where such term appears in the portion of such paragraph which precedes subclause (I);

(ii) by inserting ''and'' at the end of subclause (VI);

(iii) by striking subclauses (VIII), (IX), and (X); and

(iv) by striking ''(V), and (VIII)'', where such term appears in the portion of such paragraph which appears after the end of subclause (VII), and inserting ''and (V)''; and

(C) by striking paragraphs (10), (11), (12), and (13).

(4) Section 4(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(i)) is amended—

(A) by striking paragraphs (1) and (2); and

(B) in paragraph (3)(A), by striking ''any Federal savings association'' and all that follows through the period at the end of such paragraph and inserting ''such association was authorized to engage under this section as of September 15, 1995.''.

(c) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 804(a) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3803) is amended—

(A) in the portion of such subsection which precedes paragraph (1)—

(i) by striking '', and other nonfederally chartered housing creditors,''; and

(ii) by inserting ''and in order to permit other nonfederally chartered housing creditors to make, purchase, and enforce alternative mortgage transactions,'' after ''enforcing alternative mortgage transactions, ''; and

(B) in paragraph (1), by inserting ''(as such term is defined in section 3(a) of the Federal Deposit Insurance Act)'' after ''with respect to banks''.

(2) Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended—

(A) in the portion of paragraph (8)(A) which precedes clause (i), by striking ''A diversified savings'' and all that follows through ''with respect to'' and inserting ''A depository institution holding company which, as of September 13, 1995, and at all times thereafter, is a diversified savings and loan holding company (as defined in section 10(1)(F) of Home Owners' Loan Act, as such section is in effect on such date) with respect to''; and

(B) by striking paragraph (9).

(3) Section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)) is amended—

(A) by inserting ''and'' after the semicolon at the end of clause (v); and

(B) by striking clause (vi).

(4) Subparagraphs (A), (B), (C) of section 10(e)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(5)) are each amended by inserting before the period at the end ''(as such section is in effect on September 13, 1995)''.

SEC. 2227. REFERENCES TO SAVINGS ASSOCIATIONS AND STATE BANKS IN FEDERAL LAW.

Effective January 1, 1998, any reference in any Federal banking law to—

(1) the term ''savings association'' shall be deemed to be a reference to a bank as defined in section 3(a) of the Federal Deposit Insurance Act; and

(2) the term ''State bank'' shall be deemed to include any depository institution included in the definition of such term in section 3(a)(2) of such Act.

SEC. 2228. REPEAL OF HOME OWNERS' LOAN ACT.

Effective January 1, 1998, the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is hereby repealed.

SEC. 2229. EFFECTIVE DATE; DEFINITIONS.

(a) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this chapter shall take effect on January 1, 1998.

(b) DEFINITIONS.—For purposes of this chapter, the terms ''appropriate Federal banking agency'', ''bank holding company'', ''depository institution'', ''Federal savings association'', ''insured depository institution'', ''savings association'', and ''State bank'' have the same meanings as in section 3 of the Federal Deposit Insurance Act (as in effect on the date of the enactment of this Act).

CHAPTER 3—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

SEC. 2241. OFFICE OF THRIFT SUPERVISION ABOLISHED.

Effective January 1, 1998, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are hereby abolished.

SEC. 2242. DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.

(a) ALL OFFICE OF THRIFT SUPERVISION EMPLOYEES SHALL BE TRANSFERRED.—All employees of the Office of Thrift Supervision shall be identified for transfer under subsection (b) to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System.

(b) FUNCTIONS AND EMPLOYEES TRANSFERRED.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairman of the Board of Governors of the Federal Reserve System shall jointly determine the functions or activities of the Office of Thrift Supervision, and the number of employees of such Office necessary to perform or support such functions or activities, which are transferred from the Office to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as the case may be.

(2) ALLOCATION OF EMPLOYEES.—The Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairman of the Board of Governors of the Federal Reserve System shall allocate the employees of the Office of Thrift Supervision consistent with the number determined pursuant to paragraph (1) in a manner which such Comptroller, Chairperson, and Chairman, in their sole discretion, deem equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

(c) DISPOSITION OF AFFAIRS.—

(1) IN GENERAL.—In winding up the affairs of the Office of Thrift Supervision, the Director of the Office of Thrift Supervision shall consult and cooperate with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System, as the case may be, to facilitate the orderly transfer of the functions to such Comptroller, Corporation, or Board.

(2) CONTINUING AUTHORITY OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—Except as provided in paragraph (1), no provision of this subtitle shall be construed as affecting the authority vested in the Director of the Office of Thrift Supervision before the date of enactment of this Act which is necessary to carry out the duties of the position until the date upon which the position of Director of the Office of Thrift Supervision is abolished.

(3) CONTINUATION OF AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, or any successor to any such agency, department, or instrumentality, which was providing support services to the Director of the Office of Thrift Supervision on the day before the date such position is abolished shall—

(A) continue to provide such services on a reimbursable basis, in accordance with the terms of the arrangement pursuant to which such services were provided until the arrangement is modified or terminated in accordance with such terms, except that effective January 1, 1998, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as the case may be, shall be substituted for the Director of the Office of Thrift Supervision as a party to the arrangement; and

(B) consult with the Comptroller, the Corporation, or the Board to coordinate and facilitate a prompt and reasonable transition.

(d) TRANSFER OF PROPERTY.—Effective January 1, 1998, all property of the Office of Thrift Supervision shall be transferred to the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as determined in accordance with subsections (a) and (b).

SEC. 2243. SAVINGS PROVISIONS.

(a) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this title shall be construed as affecting the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, or any person, which existed on the day before the date upon which the position of Director of the Office of Thrift Supervision and the Office of Thrift Supervision are abolished.

(b) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Director of the Office of Thrift Supervision shall abate by reason of enactment of this Act, except that, effective January 1, 1998, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as the case may be, shall be substituted as a party to any such action or proceeding.

(c) CONTINUATION OF ADMINISTRATIVE RULES.—All orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures, supervisory and enforcement actions, and other advisory material (other than any regulation implementing or prescribed pursuant to section 3(f) of the Home Owners' Loan Act (as in effect on September 13, 1995)) which—

(1) have been issued, made, prescribed, or permitted to become effective by the Office of Thrift Supervision, and

(2) are in effect on December 31, 1996, (or become effective after such date pursuant to the terms of the order, resolution, determination, rule, other interpretation, guideline, procedure, supervisory or enforcement action, and other advisory material, as in effect on such date), shall—

(A) continue in effect according to the terms of such orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures, supervisory or enforcement actions, or other advisory material;

(B) be administered by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System; and

(C) be enforceable by or against the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System until modified, terminated, set aside, or superseded in accordance with applicable law by the Comptroller, Corporation, or Board, by any court of competent jurisdiction, or by operation of law.

(d) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGES ISSUED BEFORE FIRREA.—For purposes of section 402(e) of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1437 note), any reference in such section to—

(A) the Director of the Office of Thrift Supervision shall be deemed to be a reference to the Secretary of the Treasury; and

(B) a Savings Association Insurance Fund member shall be deemed to be a reference to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act).

(e) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGE INSTRUMENTS ISSUED AFTER FIRREA.—

(1) IN GENERAL.—For purposes of adjustable rate mortgage instruments that are in effect as of the date of enactment of this Act, any reference in the instrument to the Director of the Office of Thrift Supervision or Savings Association Insurance Fund members shall be treated as a reference to the Secretary of the Treasury or insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), as appropriate.

(2) SUBSTITUTION FOR INDEXES.—If any index used to calculate the applicable interest rate on any adjustable rate mortgage instrument is no longer calculated and made available as a direct or indirect result of the enactment of this Act, any index—

(A) made available by the Secretary of the Treasury; or

(B) determined by the Secretary of the Treasury, pursuant to paragraph (4), to be substantially similar to the index which is no longer calculated or made available,

may be substituted by the holder of any such adjustable rate mortgage instrument upon notice to the borrower.

(3) AGENCY ACTION REQUIRED TO PROVIDE CONTINUED AVAILABILITY OF INDEXES.—Promptly after the enactment of this subsection, the Secretary of the Treasury, the Chairperson of the Federal Deposit Insurance Corporation, and the Comptroller of the Currency shall take such action as may be necessary to assure that the indexes prepared by the Director of the Office of Thrift Supervision immediately prior to the enactment of this subsection and used to calculate the interest rate on adjustable rate mortgage instruments continue to be available.

(4) REQUIREMENTS RELATING TO SUBSTITUTE INDEXES.—If any agency can no longer make available an index pursuant to paragraph (3), an index that is substantially similar to such index may be substituted for such index for purposes of paragraph (2) if the Secretary of the Treasury determines, after notice and opportunity for comment, that—

(A) the new index is based upon data substantially similar to that of the original index; and

(B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

SEC. 2244. REFERENCES IN FEDERAL LAW TO DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Effective January 1, 1998, any reference in any Federal law to the Director of the Office of Thrift Supervision or the Office of Thrift Supervision shall be deemed to be a reference to the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act).

SEC. 2245. RECONFIGURATION OF BOARD OF DIRECTORS OF FDIC AS A RESULT OF REMOVAL OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

(a) IN GENERAL.—Section 2(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(1)) is amended to read as follows:

''(1) IN GENERAL.—The management of the Corporation shall be vested in a Board of Directors consisting of 3 members—

''(A) 1 of whom shall be the Comptroller of the Currency; and

''(B) 2 of whom shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 2(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(2)) is amended—

(A) by striking ''February 28, 1993'' and inserting ''January 1, 1998''; and

(B) by striking ''3'' and inserting ''2''.

(2) Section 2(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(d)(2)) is amended—

(A) by striking ''or the office of Director of the Office of Thrift Supervision'';

(B) by striking ''or such Director'';

(C) by striking ''or the Acting Director of the Office of Thrift Supervision, as the case may be''; and

(D) by striking ''or Director''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1998.

(d) DESIGNATION OF ABOLISHED POSITION.—Unless there is a vacancy in the position of an appointed member of the Board of Directors as of January 1, 1998, the President, consistent with the requirements of section 2(a)(2) of the Federal Deposit Insurance Act, shall designate which of the 3 positions of appointed member of such Board of Directors shall be abolished pursuant to the amendment made by subsection (a).

Subtitle C—Community Reinvestment Act Amendments

SEC. 2301. EXPRESSION OF CONGRESSIONAL INTENT.

Subsection (b) of section 802 of the Community Reinvestment Act of 1977 (12 U.S.C. 2901) is amended to read as follows:

''(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority, when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions. When examining financial institutions, a supervisory agency shall not impose additional burden, recordkeeping, or reporting upon such institutions.''.

SEC. 2302. COMMUNITY REINVESTMENT ACT EXEMPTION.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

''SEC. 809. TREATMENT OF SMALL FINANCIAL INSTITUTIONS.

''(a) IN GENERAL.—In lieu of being evaluated under section 806A and receiving a written evaluation under section 807, an eligible regulated financial institution shall make a notice, signed by the president, available to the public that—

''(1) lists the type of credit and services that the institution provides to help meet the credit needs of the local community; and

''(2) states that the institution helps meet the credit needs of the local communities in which the institution operates, including low- and moderate-income neighborhoods.

''(b) ELIGIBLE REGULATED FINANCIAL INSTITUTIONS.—

''(1) IN GENERAL.—A regulated financial institution shall be eligible for purposes of subsection (a) if the institution and any bank holding company which controls such institution have aggregate assets of not more than $100,000,000.

''(2) ANNUAL ADJUSTMENT.—The dollar amount in paragraph (1) shall be adjusted annually after December 31, 1994, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

''(c) EXEMPTION FROM OTHER REQUIREMENTS.—A regulated financial institution which has complied with the notice requirements of subsection (a) shall not be subject to section 804 and any regulations prescribed under section 806.''.

SEC. 2303. SELF-CERTIFICATION OF CRA COMPLIANCE.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by adding at the end the following new subsection (c):

''(c) SELF-CERTIFICATION OF CRA COMPLIANCE.—

''(1) CERTIFICATION.—In lieu of being evaluated under section 806A and receiving a written evaluation under section 807, a qualifying financial institution may elect to self-certify to the appropriate Federal financial supervisory agency that such institution is in compliance with the goals of this title.

''(2) QUALIFYING INSTITUTION.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualifying institution' means a financial institution which—

''(i) has not more than $250 million in assets;

''(ii) has not been found to have engaged in a pattern or practice of illegal discrimination under the Fair Housing Act or the Equal Credit Opportunity Act for the preceding 5-year calendar period; and

''(iii) received rating under section 807(b)(2) of 'satisfactory' or 'outstanding' in the most recent evaluation of such institution under this title.

''(B) ANNUAL ADJUSTMENT.—The dollar amount in subparagraph (A) shall be adjusted annually after December 31, 1994, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

''(3) PUBLIC NOTICE.—

''(A) IN GENERAL.—A qualifying institution shall maintain in every branch a public notice stating that—

''(i) the institution has self-certified that the institution is satisfactorily helping to meet the credit needs of its community;

''(ii) the institution maintains—

''(I) at the main office of such institution, a public file which contains a copy of the self-certification to the appropriate Federal financial supervisory agency; and

''(II) a map delineating the community served by the institution;

''(iii) a list of the types of credit and services that the institution provides to the community served by the institution;

''(iv) such other information that the institution believes demonstrates the institution's record of helping to meet the credit needs of its community; and

''(v) every public comment or letter to the institution (and any response by the institution) received within the previous 2-year period about the record of the institution of helping to meet the credit needs of its community.

''(B) PUBLIC FILE.—A qualifying institution shall maintain a public file containing the contents described in this paragraph at the institution's main office.

''(4) RATING.—

''(A) IN GENERAL.—A qualifying institution shall be deemed to have a rating of a 'satisfactory record of meeting community credit needs' for the purposes of this section and section 806A(c).

''(B) PUBLICATION.—Each Federal financial supervisory agency shall publish in the Federal Register once each month a list of institutions that have self-certified during the previous month.

''(C) PUBLICATION CONSTITUTES DISCLOSURE.—Publication of the name of the institution in the Federal Register as having self-

certified shall constitute disclosure of the rating of the institution to the public for purposes of sections 806A and 807.

''(5) REGULATORY REVIEW.—

''(A) ASSESSMENT.—During each examination for safety and soundness, a qualifying institution's supervisory agency shall, as part of the agency's review of the institution's loans, assess whether the institution's basis for its self-certification is reasonable based on the public notice and the information contained in the public file pursuant to paragraph (3).

''(B) EXAMINATION IF SELF-CERTIFICATION IS NOT REASONABLE.—If the agency determines that the institution's basis for the institution's self-certification is not reasonable, the agency shall schedule an examination of the institution for the purpose of assessing the institution's record of helping to meet the credit needs of its community.

''(C) REVOCATION OF SELF-CERTIFICATION.—If an assessment pursuant to subparagraph (B) results in a less than 'satisfactory' rating, the agency shall revoke the institution's self-certification and substitute a written evaluation as provided under section 807.

''(D) PERIOD OF INELIGIBILITY FOR SELF-CERTIFICATION.—An institution whose self-certification has been revoked may not self-certify pursuant to this subsection during the 5 years succeeding the year in which the self-certification is revoked.

''(E) SUBSEQUENT ELIGIBILITY.—After the end of the period of ineligibility described in subparagraph (D), an institution which meets the requirements for self-certification may elect to self-certify.

''(6) PROHIBITION ON ADDITIONAL REQUIREMENTS.—No appropriate Federal financial supervisory agency may impose any additional requirements, whether by regulation or otherwise, relating to the self-certification procedure under this subsection.''.

SEC. 2304. COMMUNITY INPUT AND CONCLUSIVE RATING.

(a) CONFORMING AMENDMENT.—Section 804(a) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by inserting ''conducted in accordance with section 806A,'' after ''financial institution,''.

(b) COMMUNITY INPUT AND CONCLUSIVE RATING.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by inserting after section 806 the following new section:

''SEC. 806A. COMMUNITY INPUT AND CONCLUSIVE RATING.

''(a) PUBLICATION OF EXAM SCHEDULE AND OPPORTUNITY FOR COMMENT.—

''(1) PUBLICATION OF NOTICE.—Each appropriate Federal financial supervisory agency shall—

''(A) publish in the Federal Register, 30 days before the beginning of a calendar quarter, a listing of institutions scheduled for evaluation for compliance with this title during such calendar quarter; and

''(B) provide opportunity for written comments from the community on the performance, under this title, of each institution scheduled for evaluation.

''(2) COMMENT PERIOD.—Written comments may not be submitted to an appropriate Federal financial supervisory agency pursuant to paragraph (1) after the end of the 30-day period beginning on the first day of the calendar quarter.

''(3) COPY OF COMMENTS.—The agency shall provide a copy of such comments to the institution.

''(b) EVALUATION.—The appropriate Federal financial supervisory agency shall—

''(1) evaluate the institution in accordance with the standards contained in section 804; and

''(2) prepare and publish a written evaluation of the institution as required under section 807.

''(c) RECONSIDERATION OF RATING.—

''(1) REQUEST FOR RECONSIDERATION.—A reconsideration of an institution's rating referred to in section 807(b)(1)(C), may be requested within 30 days of the rating's disclosure to the public.

''(2) PROCEDURES FOR REQUEST.—Any such request shall be made in writing and filed with the appropriate Federal financial supervisory agency, and may be filed by the institution or a member of the community.

''(3) BASIS FOR REQUEST.—Any request for reconsideration under this subsection shall be based on significant issues of a substantive nature which are relevant to the delineated community of the institution and, in the case of a request by a member of the community, shall be limited to issues previously raised in comments submitted pursuant to subsection (a).

''(4) COMPLETION OF REVIEW.—The appropriate Federal financial supervisory agency shall complete any requested reconsideration within 30 days of the filing of the request.

''(d) CONCLUSIVE RATING.—

''(1) IN GENERAL.—An institution's rating shall become conclusive on the later of—

''(A) 30 days after the rating is disclosed to the public; or

''(B) the completion of any requested reconsideration by the Federal financial supervisory agency.

''(2) RATING CONCLUSIVE OF MEETING COMMUNITY CREDIT NEEDS.—An institution's rating shall be the conclusive assessment of the institution's record of meeting the credit needs of its community for purposes of section 804 until the institution's next rating, developed pursuant to an examination, becomes conclusive.

''(3) SAFE HARBOR.—Institutions which have received a 'satisfactory' or 'outstanding' rating shall be deemed to have met the purposes of section 804.

''(4) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, no provision of this section shall be construed as granting a cause of action to any person.''.

(c) OVERALL EVALUATION OF INSTITUTION.—Paragraph (2) of section 804(a) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903(a)) is amended to read as follows:

''(2) take such record into account in the overall evaluation of the condition of the institution by the appropriate Federal financial supervisory agency.''.

SEC. 2305. SPECIAL PURPOSE FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by inserting after subsection (c) (as added by section 2303 of this subtitle) the following new subsection:

''(d) SPECIAL PURPOSE INSTITUTIONS.—

''(1) IN GENERAL.—In conducting assessments pursuant to this section at any special purpose institution, the appropriate Federal financial supervisory agency shall—

''(A) consider the nature of business such institution is involved in; and

''(B) assess and take into account the record of the institution commensurate with the amount of deposits (as defined in section 3(1) of the Federal Deposit Insurance Act) received by such institution.

''(2) STANDARDS.—Each appropriate Federal financial supervisory agency shall develop standards under which special purpose institutions may be deemed to have complied with the requirements of this title which are consistent with the specific nature of such businesses.''.

(b) SPECIAL PURPOSE INSTITUTION DEFINED.—Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended by adding at the end the following new paragraph:

''(5) SPECIAL PURPOSE INSTITUTIONS.—The term 'special purpose institution' means a financial institution that does not generally accept deposits from the public in amounts of less than $100,000, such as wholesale, credit card, and trust institutions.''.

SEC. 2306. INCREASED INCENTIVES FOR LENDING TO LOW- AND MODERATE-INCOME COMMUNITIES.

(a) IN GENERAL.—Section 804(b) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903(b)) is amended to read as follows:

''(b) POSITIVE CONSIDERATION OF CERTAIN LOANS AND INVESTMENTS.—In assessing and taking into account the records of a regulated financial institution under subsection (a), the appropriate Federal financial supervisory agency shall—

''(1) consider as a positive factor, consistent with the safe and sound operation of the institution, the institution's investment in or loan to—

''(A) any minority depository institution or women's depository institution (as such terms are defined in section 808(b)) or any low-income credit union;

''(B) any joint venture or other entity or project which promotes the public welfare in any distressed community (as defined by such agency) whether or not the distressed community is located in the local community in which the regulated financial institution is chartered to do business; and

''(C) targeted low- and moderate-income communities, including real property loans to such communities; and

''(2) consider equally with other factors capital investment, loan participation, and other ventures undertaken by the institution in cooperation with—

''(A) minority- and women-owned financial institutions and low-income credit unions to the extent that these activities help meet the credit needs of the local communities in which such institutions are chartered; and

''(B) community development corporations in extending credit and other financial services principally to low- and moderate-income persons and small businesses to the extent that such community development corporations help meet the credit needs of the local communities served by the majority-owned institution.''.

(b) AMENDMENT TO DEFINITIONS.—Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended by inserting after paragraph (5) (as added by section 2305(b) of this subtitle) the following new paragraph:

''(6) STATE BANK SUPERVISOR.—The term 'State bank supervisor' has the same meaning as in section 3(r) of the Federal Deposit Insurance Act.''.

(c) TECHNICAL CORRECTION.—The 1st of the 2 paragraphs designated as paragraph (2) of section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended to read as follows:

''(D) the Director of the Office of Thrift Supervision with respect to any savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and any savings and loan holding company (other than a company which is a bank holding company);''.

SEC. 2307. PROHIBITION ON ADDITIONAL REPORTING UNDER CRA.

Section 806 of the Community Reinvestment Act of 1977 (12 U.S.C. 2905) is amended to read as follows:

''SEC. 806. REGULATIONS.

''(a) IN GENERAL.—

''(1) PUBLICATION REQUIREMENT.—Regulations to carry out the purposes of this title

shall be published by each appropriate Federal financial supervisory agency.

''(2) PROHIBITION ON ADDITIONAL RECORDKEEPING.—Regulations prescribed and policy statements, commentary, examiner guidance, or other supervisory material issued under this title shall not impose any additional recordkeeping on a financial institution.

''(3) PROHIBITION ON LOAN DATA COLLECTION.—No loan data may be required to be collected and reported by a financial institution and no such data may be made public by any Federal financial supervisory agency under this title.''.

SEC. 2308. TECHNICAL AMENDMENT.

Section 807(b)(1)(B) of the Community Reinvestment Act (12 U.S.C. 2906) is amended by striking ''The information'' and inserting ''In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the information''.

SEC. 2309. DUPLICATIVE REPORTING.

Section 10(g) of the Federal Home Loan Bank Act (12 U.S.C. 1430(g)) is amended by adding at the end the following new paragraph (3):

''(3) SPECIAL RULE.—This subsection shall not apply to members receiving a grade of 'outstanding' or 'satisfactory' under section 807 of the Community Reinvestment Act of 1977.''.

SEC. 2310. CRA CONGRESSIONAL OVERSIGHT.

(a) SENSE OF CONGRESS RELATING TO AGGRESSIVE OVERSIGHT.—It is the sense of the Congress that the appropriate committees of the House of Representatives and the Senate should exercise aggressive oversight of the adoption and implementation of any regulation by any appropriate Federal financial supervisory agency under the Community Reinvestment Act of 1977 after the date of the enactment of this Act.

(b) AGENCY REPORTS REQUIRED.—

(1) IN GENERAL.—Each appropriate Federal financial supervisory agency shall submit a report to the Congress by December 31, 1996, and by December 31, 1997, on the implementation of all regulations prescribed by such agency under the Community Reinvestment Act of 1977 after the date of the enactment of this Act.

(2) REQUIREMENTS RELATING TO PREPARATION OF REPORTS.—In preparing each report required under paragraph (1), each appropriate Federal financial supervisory agency shall—

(A) solicit and include comments from regulated financial institutions with respect to the regulations which are the subject of the report; and

(B) include quantifiable measures of the cost savings achieved under the regulations which are the subject of the report and the effectiveness of such regulations in achieving the purposes of the Community Reinvestment Act of 1977.

(3) DEFINITIONS.—For purposes of this section, the terms ''appropriate Federal financial supervisory agency'' and ''regulated financial institution'' have the same meanings as in section 803 of the Community Reinvestment Act of 1977.

SEC. 2311. CONSULTATION AMONG EXAMINERS.

Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

''(j) CONSULTATION AMONG EXAMINERS.—

''(1) IN GENERAL.—Each appropriate Federal banking agency shall take such action as may be necessary to ensure that examiners employed by the agency—

''(A) consult on examination activities with respect to any depository institution; and

''(B) achieve an agreement and resolve any inconsistencies on the recommendations to be given to such institution as a consequence of any examinations.

''(2) EXAMINER-IN-CHARGE.—Each agency shall consider appointing an examiner-in-charge with respect to a depository institution to ensure consultation on examination activities among all of the agency's examiners involved in examinations of such institution.''.

SEC. 2312. LIMITATION ON REGULATIONS.

Section 806 of the Community Reinvestment Act of 1977 (12 U.S.C. 2905) (as amended by section 2307) is amended by adding at the end the following new subsections:

''(b) LIMITATION ON REGULATIONS.—No regulation may be prescribed under this title by any Federal agency which would—

''(1) require any regulated financial institution to—

''(A) make any loan or enter into any other agreement on the basis of any discriminatory criteria prohibited under any law of the United States; or

''(B) make any loan to, or enter into any other agreement with, any uncreditworthy person that would jeopardize the safety and soundness of such institution; or

''(2) prevent or hinder in any way a financial institution's full responsibility to provide credit to all segments of the community.

''(c) ENCOURAGE LOANS TO CREDITWORTHY BORROWERS.—Regulations prescribed under this title shall encourage regulated financial institutions to make loans and extend credit to all creditworthy persons, consistent with safety and soundness.''.

Subtitle D—Phase-Down of Oversight Board

SEC. 2401. TERMINATION OF AUTHORITY OF OVERSIGHT BOARD TO EMPLOY STAFF.

(a) IN GENERAL.—Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by adding at the end the following new paragraph:

''(17) PHASED-DOWN OPERATION OF OVERSIGHT BOARD FOLLOWING TERMINATION OF CORPORATION.—

''(A) TERMINATION OF AUTHORITY TO EMPLOY STAFF.—Except as provided in subparagraph (B), the authority of the Thrift Depositor Protection Oversight Board under paragraph (5) to establish officer and employee positions, to compensate officers and employees of the Board, to provide other benefits for officers and employees of the Board, and to utilize staff of any other department or agency shall terminate as of December 31, 1995.

''(B) LIMITED AUTHORITY FOR DETAILING STAFF FROM OTHER AGENCIES.—If the Thrift Depositor Protection Oversight Board determines that any staff is required to carry out the functions of the Board after the authority to employ staff terminates under subparagraph (A), the Board shall—

''(i) utilize employees of any other department or agency in accordance with paragraph (5)(F) to carry out the staff functions which have been determined to be necessary; and

''(ii) submit a report to the Congress containing—

''(I) the number of staff positions which the Board has determined are necessary to carry out the Board's functions after the termination of the Corporation;

''(II) a justification for such determination; and

''(III) an estimate of the length of the period for which such staff positions will be required.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subparagraphs (B), (C), (D), and (E) of section 21A(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)) are each amended by inserting ''subject to paragraph (17)(A),'' after the closing parenthesis of the subparagraph designation.

(2) Section 21A(a)(5)(F) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)(F)) is amended by inserting ''subject to subparagraphs (A) and (B) of paragraph (17) and'' after ''(F)''.

TITLE III—COMMITTEE ON COMMERCE

Subtitle A—Communications

CHAPTER 1—SPECTRUM AUCTIONS

SEC. 3001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

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

''(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

''(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

''(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

''(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

''(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses.''; and

(B) by striking ''1998'' in paragraph (11) and inserting ''2002''.

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of such Act is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section; or

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act.

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.

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

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services; and

(D) comply with the requirements of international agreements concerning spectrum allocations.

(3) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

''(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Seven-Year Balanced Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.'';

(2) in section 114(a)(1), by striking ''(a) or (d)(1)'' and inserting ''(a), (d)(1), or (f)''.

(d) COMPLETION OF C-BLOCK PCS AUCTION.—The Federal Communications Commission shall commence the Broadband Personal Communications Services C-Block auction described in the Commission's Sixth Report and Order in DP Docket 93–253 (FCC 93–510, released July 18, 1995) not later than December 4, 1995. The Commission's competitive bidding rules governing such auction, as set forth in such Sixth Report and Order, are hereby ratified and adopted as a matter of Federal law.

(e) MODIFICATION OF AUCTION POLICY TO PRESERVE AUCTION VALUE OF SPECTRUM.—The voluntary negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established by the Commission's Third Report and Order in ET Docket No. 92–9, shall expire one year after the date of acceptance by the Commission of applications for such licensed emerging technology services. The mandatory negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established in such Third Report and Order, shall expire two years after the date of acceptance by the Commission of applications for such licensed emerging technology services.

(f) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting ''INITIAL REALLOCATION REPORT'';

(B) by inserting ''in the first report required by subsection (a)'' after ''recommend for reallocation'' in paragraph (1);

(C) by inserting ''or (3)'' after ''paragraph (1)'' each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

''(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).''; and

(2) in section 115—

(A) in subsection (b), by striking ''the report required by section 113(a)'' and inserting ''the initial reallocation report required by section 113(a)''; and

(B) by adding at the end the following new subsection:

''(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j).''.

CHAPTER 2—FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION

SEC. 3011. SHORT TITLE.

This chapter may be cited as the ''Federal Communications Commission Authorization Act of 1995''.

SEC. 3012. EXTENSION OF AUTHORITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

''SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for the administration of this Act by the Commission $186,000,000 for fiscal year 1996, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1996. Of the sum appropriated in each fiscal year under this section, a portion, in an amount determined under sections 8(b) and 9(b), shall be derived from fees authorized by sections 8 and 9.''.

(b) TRAVEL AND REIMBURSEMENT PROGRAM.—Section 4(g)(2) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)) is amended to read as follows:

''(2) The Commission shall submit to the appropriate committees of Congress, and publish in the Federal Register, semiannual reports specifying the reimbursements which the Commission has accepted under section 1353 of title 31, United States Code.''.

(c) COMMUNICATIONS SUPPORT FROM OLDER AMERICANS.—Section 6(a) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) is amended by striking ''fiscal years 1992 and 1993'' and inserting ''fiscal year 1996''.

SEC. 3013. APPLICATION FEES.

(a) ADJUSTMENT OF APPLICATION FEE SCHEDULE.—Section 8(b) of the Communications Act of 1934 (47 U.S.C. 158(b)) is amended to read as follows:

''(b)(1) For fiscal year 1996 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to—

''(A) $40,000,000; plus

''(B) an additional amount, specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, not to exceed the amount by which the necessary expenses for the costs described in paragraph (5) exceeds $40,000,000.

''(2) In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5.00 in the case of fees under $100, or to the nearest $20 in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made pursuant to this paragraph immediately upon the adoption of such adjustment.

''(3) The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraphs (1) and (4).

''(4) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of Commission rulemaking proceedings or changes in law.

''(5) Any modified fees established under paragraph (4) shall be derived by determining the full-time equivalent number of employees performing application activities, adjusted to take into account other expenses that are reasonably related to the cost of processing the application or filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors that the Commission determines are necessary in the public interest. The Commission shall—

''(A) transmit to the Congress notification of any proposed modification made pursuant to this paragraph immediately upon adoption of such proposal; and

''(B) transmit to the Congress notification of any modification made pursuant to this paragraph immediately upon adoption of such modification.

''(6) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.''.

(b) TREATMENT OF ADDITIONAL COLLECTIONS.—Section 8(e) of such Act is amended to read as follows:

''(e) Of the moneys received from fees authorized under this section—

''(1) $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act; and

''(2) the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.''.

(c) SCHEDULE OF APPLICATION FEES FOR PCS.—The schedule of application fees in section 8(g) of such Act is amended by adding, at the end of the portion under the heading ''COMMON CARRIER SERVICES'', the following new item:

''23. Personal communications services	
''a. Initial or new application ...	230.00

''b. Amendment to pending application 35.00
''c. Application for assignment or transfer of control 230.00
''d. Application for renewal of license 35.00
''e. Request for special temporary authority 200.00
''f. Notification of completion of construction 35.00
''g. Request to combine service areas ..... 50.00''.

(d) VANITY CALL SIGNS.—

(1) LIFETIME LICENSE FEES.—

(A) AMENDMENT.—The schedule of application fees in section 8(g) of such Act is further amended by adding, at the end of the portion under the heading ''PRIVATE RADIO SERVICES'', the following new item:

''11. Amateur vanity call signs ..... 150.00''.

(B) TREATMENT OF RECEIPTS.—Moneys received from fees established under the amendment made by this subsection shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(2) TERMINATION OF ANNUAL REGULATORY FEES.—The schedule of regulatory fees in section 9(g) of such Act (47 U.S.C. 159(g)) is amended by striking the following item from the fees applicable to the Private Radio Bureau:

''Amateur vanity call-signs ..... 7''.

SEC. 3014. REGULATORY FEES.

(a) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1) of the Communications Act of 1934 (47 U.S.C. 159(a)(1)) is amended by inserting before the period at the end the following: '', and all executive and legal costs incurred by the Commission in the discharge of these functions''.

(b) ESTABLISHMENT AND ADJUSTMENT.—Section 9(b) of such Act is amended—

(1) in paragraph (4)(B), by striking ''90 days'' and inserting ''45 days''; and

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

''(5) EFFECTIVE DATE OF ADJUSTMENTS.—The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraph (2) or (3).''.

(c) REGULATORY FEES FOR SATELLITE TV OPERATIONS.—The schedule of regulatory fees in section 9(g) of such Act is amended, in the fees applicable to the Mass Media Bureau, by inserting after each of the items pertaining to construction permits in the fees applicable to VHF commercial and UHF commercial TV the following new item:

''Terrestrial television satellite operations ..... 500''.

(d) GOVERNMENTAL ENTITIES USE FOR COMMON CARRIER PURPOSES.—Section 9(h) of such Act is amended by adding at the end the following new sentence: ''The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.''.

(e) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF REGULATORY FEES.—Title I of such Act is amended—

(1) in section 9, by striking subsection (i); and

(2) by inserting after section 9 the following new section:

''SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

''(a) ACCOUNTING SYSTEM REQUIRED.—The Commission shall develop accounting systems for the purposes of making the adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in section 8(a)(5) and 9(a)(1) in making such adjustments in the schedules required by sections 8 and 9.

''(b) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF APPLICATION AND REGULATORY FEES.—

''(1) SCHEDULE OF REQUESTED AMOUNTS.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the Committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(a)(5) and 9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

''(2) EXPLANATORY STATEMENT.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

''(3) DEFINITION.—For purposes of this subsection, the term 'amount requested by the President's budget' shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such Committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.''.

SEC. 3015. INSPECTION OF SHIP RADIO STATIONS.

(a) AUTHORITY TO DESIGNATE ENTITIES TO INSPECT.—Section 4(f)(3) of the Communications Act of 1934 (47 U.S.C. 154(f)(3)) is amended by inserting before the period at the end the following: *'': And provided further,* That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph''.

(b) CONDUCT OF INSPECTIONS.—Section 362(b) of such Act (47 U.S.C. 362(b)) is amended to read as follows:

''(b) Every ship of the United States that is subject to this part shall have the equipment and apparatus prescribed therein inspected at least once each year by the Commission or an entity designated by the Commission. If, after such inspection, the Commission is satisfied that all relevant provisions of this Act and the station license have been complied with, the fact shall be certified to on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as the Commission determines may be necessary to ensure compliance with the requirements of this Act. The Commission may, upon a finding that the public interest could be served thereby—

''(1) waive the annual inspection required under this section for a period of up to 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held; or

''(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating solely in waters beyond the jurisdiction of the United States, provided that such inspection shall be performed within 30 days of such vessel's return to the United States.''.

(c) INSPECTION BY OTHER ENTITIES.—Section 385 of such Act (47 U.S.C. 385) is amended by inserting ''or an entity designated by the Commission'' after ''The Commission''.

SEC. 3016. EXPEDITED ITFS PROCESSING.

Section 5(c)(1) of the Communications Act of 1934 (47 U.S.C. 155(c)(1)) is amended by striking the last sentence and inserting the following: ''Except for cases involving the authorization of service in the Instructional Television Fixed Service, or as otherwise provided in this Act, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, United States Code, of any hearing to which such section applies.''.

SEC. 3017. TARIFF REJECTION AUTHORITY.

Section 203(d) of the Communications Act of 1934 (47 U.S.C. 203(d)) is amended by inserting after the first sentence the following new sentences: ''The Commission may, after affording interested parties an opportunity to comment, reject a proposed tariff filing in whole or in part, if the filing or any part thereof is patently unlawful. In evaluating whether a proposed tariff filing is patently unlawful, the Commission may consider additional information filed by the carrier or any interested party and shall presume the facts alleged by the carrier to be true.''.

SEC. 3018. REFUND AUTHORITY.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

''SEC. 230. REFUND AUTHORITY.

''In addition to any other provision of this Act under which the Commission may order refunds, the Commission may require by order the refund of such portion of any charge by any carrier or carriers as results from a violation of section 220 (a), (b), or (d) or 221 (c) or (d) or of any of the rules promulgated pursuant to such sections or pursuant to section 215, 218, or 219. Such refunds shall be ordered only to the extent that the Commission or a court finds that such violation resulted in unlawful charges and shall be made to such persons or classes of persons as the Commission determines reasonably represent the persons from whom amounts were improperly received by reason of such violation. No refunds shall be required under this section unless—

''(1) the Commission issues an order advising the carrier of its potential refund liability and provides the carrier with an opportunity to file written comments as to why refunds should not be required; and

''(2) such order is issued not later than 5 years after the date the charge was paid.

In the case of a continuing violation, a violation shall be considered to occur on each date that the violation is repeated.''.

SEC. 3019. LICENSING OF AVIATION AND MARITIME SERVICES BY RULE.

Section 307(e) of the Communications Act of 1934 (47 U.S.C. 307(e)) is amended to read as follows:

''(e)(1) Notwithstanding any license requirement established in this Act, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (B) the maritime radio service for ship stations

navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

''(2) Any radio station operator who is authorized by the Commission to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

''(3) For purposes of this subsection, the terms 'aircraft station' and 'ship station' shall have the meanings given them by the Commission by rule.''.

SEC. 3020. AUCTION TECHNICAL AMENDMENTS.

(a) FUNDING AVAILABILITY.—Section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)) is amended by adding at the end the following new sentence: ''Such offsetting collections are authorized to remain available until expended.''.

(b) ESCROW OF DEPOSITS.—Section 309(j)(8) of such Act is further amended by adding at the end the following new subparagraph:

''(C) ESCROW OF DEPOSIT.—The Commission is authorized, based on the competitive bidding methodology selected, to provide for the deposit of moneys for bids in an interest-bearing account until such time as the Commission accepts a deposit from the high bidder. All interest earned on bid moneys received from the winning bidder shall be deposited into the general fund of the Treasury. All interest earned on bid moneys deposited from unsuccessful bidders, less any applicable fees and penalties, shall be paid to those bidders.''.

SEC. 3021. FORFEITURES FOR VIOLATIONS IMPERILING SAFETY OF LIFE.

(a) ADMINISTRATIVE SANCTIONS.—Section 312(a) of the Communications Act of 1934 (47 U.S.C. 312(a)) is amended—

(1) by striking ''or'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; or''; and

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

''(8) for failure to comply with any requirement of this Act or the Commission's rules that imperils the safety of life.''.

(b) FORFEITURES.—Section 503(b)(1) of such Act (47 U.S.C. 503(b)(1)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the semicolon at the end of subparagraph (D) and inserting ''; or''; and

(3) by adding after subparagraph (D) the following new subparagraph:

''(E) failed to comply with any requirement of this Act or the Commission's rules that imperils the safety of life;''.

SEC. 3022. USE OF EXPERTS AND CONSULTANTS.

Section 4(f)(1) of the Communications Act of 1934 (47 U.S.C. 154) is amended by adding at the end thereof the following: ''The Commission may also procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily rate equivalent to the maximum rate payable for senior-level positions under section 5276 of title 5, United States Code.''.

SEC. 3023. STATUTE OF LIMITATIONS FOR FORFEITURE PROCEEDINGS AGAINST COMMON CARRIERS.

Section 503(b)(6) of the Communications Act of 1934 (47 U.S.C. 503(b)(6)) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by inserting ''and is not a common carrier'' after ''title III of this Act'' in subparagraph (B);

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by inserting after subparagraph (A) the following new subparagraph:

''(B) such person is a common carrier and the required notice of apparent liability is issued more than 5 years after the date the violation charged occurred; or''.

SEC. 3024. UTILIZATION OF FM BAND FOR ASSISTIVE DEVICES FOR HEARING IMPAIRED INDIVIDUALS.

Within 6 months after the date of enactment of this Act, the Federal Communications Commission shall report to the Congress on the existing and future use of the FM band to facilitate the use of auditory assistive devices for individuals with hearing impairments. In preparing such report, the Commission shall consider—

(1) the potential for utilizing FM band auditory assistive devices to comply with the American with Disabilities Act;

(2) the impact on such compliance of the vulnerability of such devices to harmful interference from radio licensees; and

(3) alternative frequency allocations that could facilitate such compliance.

SEC. 3025. TECHNICAL AMENDMENT.

Section 302(d)(1) of the Communications Act of 1934 (47 U.S.C. 309(d)(1)) is amended—

(1) in subparagraph (A), by striking ''allocated to the domestic cellular radio telecommunications service'' and inserting ''utilized to provide commercial mobile service (as defined in section 332(d))''; and

(2) in subparagraph (C), by striking ''cellular'' and inserting ''commercial mobile service''.

Subtitle B—Nuclear Regulatory Commission Annual Charge

SEC. 3031. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking ''September 30, 1998'' and inserting ''September 30, 2002''.

Subtitle C—United States Enrichment Corporation

SEC. 3035. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This subtitle may be cited as the ''USEC Privatization Act''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 3036. PRODUCTION FACILITY.

Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking ''or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology''.

SEC. 3037. DEFINITIONS.

Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: ''and any successor corporation established through privatization of the Corporation'';

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

''(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

''(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

''(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

''(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.'';

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

''(18) The term 'transition date' means July 1, 1993.'';

(4) by redesignating the unredesignated paragraph (14) as paragraph (19); and

(5) by adding the following new paragraphs after paragraph (19):

''(20) The term 'gaseous diffusion plants' means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

''(21) The term 'private corporation' means the corporation established under section 1503.

''(22) The term 'Russian HEU agreement' means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

''(23) The term 'Suspension Agreement' means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.''.

SEC. 3038. EMPLOYEES OF THE CORPORATION.

(a) PARAGRAPHS (1) AND (2).—Section 1305(e) (42 U.S.C. 2297b–4(e)) is amended by striking paragraphs (1) and (2) and inserting in thereof the following:

''(1) IN GENERAL.—

''(A) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

''(B) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plan to a pension plan sponsored by the new contractor or the private corporation, as the case may be.

''(C) Any employer (including the private corporation or any contractor of the private corporation) at a gaseous diffusion plant shall abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the expiration of the agreement.

''(D) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a) (2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat such plant as a Department of Energy defense nuclear facility and any person employed by an operating contractor on the privatization date at either plant as a Department of Energy employee for purposes of sections 3161 through 3163 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274j).

''(E) The Department of Energy and the private corporation shall continue to fund postretirement health benefits for persons employed by an operating contractor at either of the gaseous diffusion plants at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date, consistent with clauses (i) through (iii), except that the Department of Energy, the private corporations and the operating contractor shall have the right to implement cost-saving measures, including (but not limited to) preferred provider organizations, managed care programs, mandatory second opinions before surgery or other medical procedures, and mandatory use of generic drugs, that do not materially diminish the overall quality of the medical care provided—

''(i) persons eligible for this coverage shall be limited to persons who retired from active employment at one of the gaseous diffusion plants as of the privatization date, as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate either of the gaseous diffusion plants and persons who, as of the privatization date, are employed by the Corporation's operating contractor and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate either of the gaseous diffusion plants;

''(ii) for persons who retired from employment with an operating contractor prior to July 1, 1993, the Department of Energy shall fund the entire cost of postretirement health benefits; and

''(iii) for persons who retire from employment with an operating contractor after July 1, 1993, the Department of Energy and the private corporation shall fund the cost of postretirement health benefits in proportion to the retired persons' years and months of service at a gaseous diffusion plant under their respective management.''.

(b) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b–4(e)(4)) is amended—

(1) by striking ''AND DETAILEES'' in the heading;

(2) by striking the first sentence;

(3) in the second sentence, by inserting ''from other Federal employment'' after ''transfer to the Corporation''; and

(4) by striking the last sentence.

SEC. 3039. MARKETING AND CONTRACTING AUTHORITY.

(a) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(1) by amending the subsection heading to read ''MARKETING AUTHORITY.—''; and

(2) by striking the first sentence.

(b) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(1) in paragraph (2)(B), by adding at the end the following: ''The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract.''; and

(2) by adding at the end the following:

''(3) EFFECT OF TRANSFER.—

''(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

''(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

''(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.''.

(c) PRICING.—Section 1402 (42 U.S.C. 2297c–1) is amended to read as follows:

''SEC. 1402. PRICING.

''The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.''.

(d) LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

''(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

''(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

''(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

''(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

''(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

''(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

''(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

''(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.''.

(e) LIABILITIES.—

(1) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(A) by inserting ''AND PRIVATIZATION'' after ''TRANSITION'' in the heading; and

(B) by adding at the end the following: ''As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.''.

(2) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(A) by inserting ''AND PRIVATIZATION'' after ''TRANSITION'' in the heading; and

(B) by adding at the end the following: ''As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.''.

(3) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(A) by inserting ''AND PRIVATIZATION'' after ''TRANSITION'' in the heading; and

(B) by striking ''the transition date'' and inserting ''the privatization date (or, in the event the privatization date does not occur, the transition date)''.

(f) TRANSFER OF URANIUM.—

(1) AMENDMENT.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

''SEC. 1408. URANIUM TRANSFERS AND SALES.

''(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural or enriched uranium in any form) to any person except as provided in this section.

''(b) RUSSIAN HEU.—

''(1) TRANFERS.—Prior to December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride delivered to the Secretary pursuant to this paragraph shall transfer to the Secretary upon delivery of such material to the Secretary. Uranium hexafluoride delivered to the Secretary pursuant to this paragraph shall be deemed to be of Russian origin.

''(2) CONTRACTS.—Within 7 years of the date of enactment of the USEC Privatization Act, the Secretary shall enter into contracts to sell the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

''(A) at any time for use in the United States for the purpose of overfeeding;

''(B) at any time for use outside the United States; and

''(C) for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3 million pounds U3O8 equivalent per year.

''(3) URANIUM HEXAFLUORIDE.—With respect to all low-enriched uranium that is delivered to the United States Executive Agent under the Russian HEU Agreement after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, deliver to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such low-enriched uranium simultaneously with the delivery of such low-enriched uranium. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent at a North American

facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity consistent with the limitations on delivery to end users set forth in this subsection. Nothing in this subsection shall restrict the sale of the conversion component of such uranium hexafluoride.

''(4) INDEPENDENT PARTY.—In the event that the Russian Executive Agent does not request delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, then the United States Executive Agent shall engage an independent party through a competitive selection process to auction an amount of uranium hexafluoride equivalent to the natural uranium component of such low-enriched uranium. Such independent party shall sell such uranium hexafluoride to any person or entity consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed to be of Russian origin.

''(5) CONSUMPTION.—Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States prior to January 1, 1998 and thereafter only in accordance with the following schedule:

''Year	Annual Maximum Deliveries to End Users (millions lbs. U_3O_8 equivalent)
1998	2 million lbs. U_3O_8 equivalent
1999	4 million lbs. U_3O_8 equivalent
2000	6 million lbs. U_3O_8 equivalent
2001	8 million lbs. U_3O_8 equivalent
2002	10 million lbs. U_3O_8 equivalent
2003	12 million lbs. U_3O_8 equivalent
2004	14 million lbs. U_3O_8 equivalent
2005 and each year thereafter.	16 million lbs. U_3O_8 equivalent

''(6) MATCHED SALES.—Uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a sale with an equal portion of U.S.-origin natural uranium pursuant to the Suspension Agreement and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

''(7) OVERFEEDING.—Uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

''(c) TRANSFERS TO THE CORPORATION.—(1) Before the privatization date, the Secretary may transfer to the Corporation without charge the low enriched uranium from up to 50 metric tons of highly enriched uranium and up to 7,000 metric tons of natural uranium, subject to the restrictions in subsection (b)(2).

''(2) The Corporation (or its successor) may not deliver for commercial end use—

''(A) any of the natural uranium transferred under this subsection before January 1, 1998;

''(B) more than 10 percent of the natural uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4 million pounds, whichever is less, in any calendar year after 1997; or

''(C) more than 800,000 separative work units of low-enriched uranium transferred under this subsection in any calendar year.

''(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsection (b), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy s stockpile.

''(2) Except as provided in subsections (b) and (d), no sale or transfer of natural or low-enriched uranium shall be made unless—

''(A) the President determines that the material is not necessary to national security needs,

''(B) the Secretary determines that the sale of the material will not have an adverse impact on the domestic uranium mining and enrichment industries, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

''(C) the price paid to the Secretary will not be less than the fair market value of the material.

''(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (c), the Secretary may transfer or sell low-enriched uranium—

''(1) to a federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

''(2) to any person for national security purposes, as determined by the Secretary; or

''(3) to any state or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.''.

(2) CONFORMING AMENDMENT.—The table of contents for chapter 24 is amended by redesignating the item relating to section 1408 as the item relating to section 1409 and by inserting after the item for section 1407 the following:

''Sec. 1408. Uranium transfers and sales.''.

SEC. 3040. PRIVATIZATION OF THE CORPORATION.

(a) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

''SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

''(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

''(B) To undertake any and all activities as provided in its corporate charter.

''(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

''(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

''(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

''(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

''(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

''(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

''(iii) persons otherwise authorized by law to enter into such transactions;

''(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

''(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

''(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

''(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

''(A) all of the Corporation's assets and obligations, including all of the Corporation's rights, duties, and obligations accruing subsequent to the privatization date under contracts, agreements, and leases entered into by the Corporation before the privatization date, including all uranium enrichment contracts and power purchase contracts;

''(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

''(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B);

''(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403; and

''(E) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

''(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

''(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

''(c) LEGAL STATUS OF PRIVATE CORPORATION.—

''(1) NOT FEDERAL AGENCY.—The Corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

''(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the Corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

''(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the Corporation established pursuant to subsection (a)(1).

''(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

''(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.''.

(b) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by subsection (a)) is amended by adding at the end the following new section:

''SEC. 1504. OWNERSHIP LIMITATIONS.

''(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

''(b) APPLICATION.—Subsection (a) shall not apply—

''(1) to any employee stock ownership plan of the Corporation,

''(2) to underwriting syndicates holding shares for resale, or

''(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

''(c) ACQUISITIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

''(1) in the public offering of securities of the Corporation in the implementation of the privatization,

''(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

''(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.''.

(c) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by subsection (b)) is amended by adding at the end the following new section:

''SEC. 1505. EXEMPTION FROM LIABILITY.

''(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

''(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.

''(c) SECURITIES LAWS APPLICABLE.—Any offering or sale of securities by the Corporation established pursuant to section 1503(a)(1) shall be subject to the Securities Act of 1933, the Securities Exchange Act of 1934 and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.''.

(d) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by subsection (c)) is amended by adding at the end the following new section:

''SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

''(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

''(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.''.

(e) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

''Sec. 1503. Establishment of Private Corporation.
''Sec. 1504. Ownership Limitations.
''Sec. 1505. Exemption from Liability.
''Sec. 1506. Resolution of Certain Issues.''.

(f) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

''(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

''(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

''(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.''.

(g) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d–1(d)) is amended by striking ''less than 60 days after notification of the Congress'' and inserting ''less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)''.

SEC. 3041. PERIODIC CERTIFICATION OF COMPLIANCE.

Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking ''ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1).'' and inserting ''PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.''.

SEC. 3042. LICENSING OF OTHER TECHNOLOGIES.

Subsection (a) of section 1702 (42 U.S.C. 2297f–1(a)) is amended by striking ''other than'' and inserting ''including''.

SEC. 3043. CONFORMING AMENDMENTS.

(a) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—

(1) REPEALS.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(A) Section 1202.
(B) Sections 1301 through 1304.
(C) Sections 1306 through 1316.
(D) Sections 1404 and 1405.
(E) Section 1601.
(F) Sections 1603 through 1607.

(2) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(b) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:

(1) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the ''United States Enrichment Corporation'' shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by section 3036(a)).

(2) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by striking ''the United States'' and all that follows through the period and inserting ''the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.''.

(3) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102–486.

(c) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b–4) is amended—

(1) by repealing subsections (a), (b), (c), and (d), and

(2) in subsection (e)—

(A) by striking the subsection designation and heading,

(B) by redesignating paragraph (1) (as added by section 3038(a)) as subsection (a), striking ''IN GENERAL.—'' and inserting ''IN GENERAL.—'', redesignating subparagraphs (A) through (E) as paragraphs (1) through (5) (redesignating in such paragraph, clauses (i) through (iii) as subparagraphs (A) through (C)), striking ''clauses (i) through (iii)'' in paragraph (5) and inserting ''subparagraphs (A) through (C)'', and by moving the margins 2-ems to the left,

(C) by striking paragraph (3), and

(D) by redesignating paragraph (4) (as amended by section 3038(b)) as subsection (b), and by moving the margins 2-ems to the left.

Subtitle D—Waste Isolation Pilot Project

SEC. 3045. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This subtitle may be cited as the ''Waste Isolation Pilot Plant Land Withdrawal Amendment Act''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference

shall be considered to be made to a section or other provision of the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102–579).

SEC. 3046. DEFINITIONS.

Paragraphs (18) and (19) of section 2 are repealed.

SEC. 3047. TEST PHASE AND RETRIEVAL PLANS.

Section 5 is repealed.

SEC. 3048. TEST PHASE ACTIVITIES.

Section 6 is amended—

(1) by repealing subsections (a) and (b),

(2) by repealing paragraph (1) of subsection (c),

(3) by repealing subparagraph (A) of paragraph (2) of subsection (c),

(4) by redesignating subsection (c) as subsection (a), by striking the subsection heading and the matter before paragraph (1) and inserting ''STUDY.—The following study shall be conducted:'', by striking ''(2) REMOTE-HANDLED WASTE.—'', by striking ''(B) STUDY.—'', and by redesignating clauses (i), (ii), and (iii) as paragraphs (1), (2), and (3), respectively, and moving them 4-ems to the left, and

(5) by redesignating subsection (d) as subsection (b).

SEC. 3049. DISPOSAL OPERATIONS.

Section 7(b) is repealed.

SEC. 3050. ENVIRONMENTAL PROTECTION AGENCY DISPOSAL REGULATIONS.

(a) SECTION 8(d)(1).—Section 8(d)(1) is amended by striking subparagraphs (B), (C), and (D) and by adding after subparagraph (A) the following:

''(B) COMMENTS OF ADMINISTRATOR.—Within 2 months of receipt of the application under subparagraph (A), the Administrator shall provide the Secretary with any comments on the Secretary's application. Within one month of the receipt of such comments, the Secretary shall, to the extent practicable, incorporate the Administrator's comments in the Secretary's application. The comments of the Administrator provided to the Secretary should also be transmitted to the appropriate committees of jurisdiction in the House of Representatives and the Senate.''.

(b) SECTION 8(d) (2), (3).—Section 8(d) is amended by striking paragraphs (2) and (3), by striking ''(1) COMPLIANCE WITH DISPOSAL REGULATIONS.—'', and by redesignating subparagraphs (A) and (B) of paragraph (1), as amended by subsection (a), as paragraphs (1) and (2), respectively, and moving them 2-ems to the left.

(c) SECTION 8(f).—Subsection (f) of section 8 is amended—

(1) by amending the subsection heading to read ''PERIODIC REVIEW'', and

(2) by amending paragraph (2) to read as follows:

''(2) REVIEW BY THE ADMINISTRATOR.—The Administrator shall, not later than 6 months after receiving a submission under paragraph (1), comment on whether or not the WIPP facility continues to be in compliance with the final disposition regulations.''.

(d) SECTION 8(g).—Section 8(g) is amended to read as follows:

''(g) ENGINEERED AND NATURAL BARRIERS, ETC.—The Secretary should determine whether or not engineered barriers or natural barriers, or both, will be required at WIPP consistent with regulations published as part 191 of 40 C.F.R.''.

SEC. 3051. COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS.

(a) SECTION 9(a)(1).—Section 9(a)(1) is amended by adding after and below subparagraph (H) the following:

''With respect to transuranic mixed waste designated by the Secretary for disposal at WIPP, such waste is exempt from the land disposal restrictions published at part 268 of 40 C.F.R. because compliance with the environmental radiation protection standards published at part 191 of 40 C.F.R. renders compliance with the land disposal restrictions unnecessary to achieve desired environmental protection and a no migration variance is not required for disposal of transuranic mixed waste at WIPP.''.

(b) SECTION 9(b).—Subsection (b) of section 9 is repealed.

(c) SECTIONS 9(c), (d).—Subsections (c) and (d) of section 9 are repealed.

SEC. 3052. RETRIEVABILITY.

Section 10 is amended to read as follows:

''SEC. 10. TRANSURANIC WASTE.

''It is the intent of Congress that a decision will be made by the Secretary with respect to the disposal of transuranic waste no later than March 31, 1997.''.

SEC. 3053. DECOMMISSIONING OF WIPP.

Section 13 is amended—

(1) by repealing subsection (a), and

(2) in subsection (b), by striking ''(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the'' and inserting ''The''.

SEC. 3054. ECONOMIC ASSISTANCE AND MISCELLANEOUS PAYMENTS.

Section 15(a) is amended—

(1) by striking ''to the Secretary for payments to the State $20,000,000 for each of the 15 fiscal years beginning with the fiscal year in which the transport of transuranic waste to WIPP is initiated'' and inserting ''to the State $20,000,000 for each of the 15 fiscal years beginning with the date of the enactment of the Waste Isolation Pilot Plant Land Withdrawal Amendment Act'', and

(2) by adding at the end the following: ''An appropriation to the State shall be in addition to any appropriation for WIPP.''.

SEC. 3055. NON-DEFENSE WASTE.

Section 7(a) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

''(3) NONDEFENSE WASTE.—Within the capacity prescribed by paragraph (4), WIPP may receive transuranic waste from the Secretary which did not result from a defense activity.''.

Subtitle E—Strategic Petroleum Reserve

SEC. 3071. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.

(a) AMENDMENT.—Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 151 et seq.) is amended by adding at the end the following new section:

''USE OF UNDERUTILIZED FACILITIES

''SEC. 168. (a) AUTHORITY.—Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative.

''(b) CONDITIONS OF WITHDRAWAL.—The lessee or occupier of facilities under subsection (a) may not withdraw petroleum product from those facilities more frequently than once every 5 years, unless an earlier drawdown is required to comply with the terms of the International Energy Agreement or to respond to a national energy emergency involving the disruption of more than 5 percent of the lessee's or occupier's imports.

''(c) PRIORITY ACCESS.—When a drawdown of the reserve is ordered pursuant to section 161, the United States shall have priority access, over a lessee or occupier of facilities under subsection (a), to distribution facilities, including pipelines and terminals.

''(d) STATUS OF STORED PETROLEUM PRODUCT.—Petroleum product stored under this section is not part of the Reserve, and may be exported from the United States.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of part B of title I of the Energy Policy and Conservation Act is amended by adding at the end the following new item:

Subtitle F—FDA Export Reform and Enhancement Act

SECTION 3081. SHORT TITLE.

This Act may be cited as the ''FDA Export Reform and Enhancement Act of 1995''.

SEC. 3082. EXPORT OF NEW DRUGS.

Section 801(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e) is amended—

(1) in paragraph (1), by inserting after ''under this Act'' the following: ''or in violation of section 505 or section 351 of the Public Health Service Act'',

(2) in paragraph (1), by striking the last sentence, and

(3) by amending paragraph (2) to read as follows:

''(2) Paragraph (1) does not apply to the export of—

''(A) any device—

''(i) which does not comply with an applicable requirement under section 514 or 515,

''(ii) which under section 520(g) is exempt from either such section, or

''(iii) which is a banned device under section 516, or

''(B) any drug (including a biological product) which does not comply with an applicable requirement under section 505 or 512 or section 351 of the Public Health Service Act,

unless the device or drug is in compliance with the requirements of paragraph (1) and if the device or drug is to be exported to a country which is not a member of the World Trade Organization, the person exporting it has notified the Secretary of the export at least 30 days before the export and has included in such notice the name of the product, the country to which the product is being exported, and a brief description of the medical need for such device or drug in such country. In the case of a device or drug for which an export notice is required under this paragraph, the Secretary may prohibit the export of such device or drug if the Secretary determines that the possibility of the reimportation of the device or drug into the United States presents an imminent hazard to the public health and safety of the United States and the only means of limiting the hazard is to prohibit the export of the device or drug.''.

SEC. 3083. EXPORT OF CERTAIN UNAPPROVED PRODUCTS.

Section 802 (21 U.S.C. 382) is repealed.

SEC. 3084. PARTIALLY PROCESSED BIOLOGICAL PRODUCTS.

Subsection (h) of section 351 of the Public Health Service Act (42 U.S.C. 262) is amended to read as follows:

''(h) A partially-processed biological product which—

''(1) is not a form applicable to the prevention, treatment, or cure of diseases or injuries of man,

''(2) is not intended for sale in the United States, and

''(3) is intended for further manufacture into final dosage form outside the United States,

shall be subject to no restriction on its export under this Act or the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).''

''Sec. 168. Use of underutilized facilities.''.

TITLE IV—COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

SEC. 4000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Subtitle A—Higher Education

SEC. 4001. SHORT TITLE; EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the ''Higher Education Program Efficiency Act of 1995''.

(b) EFFECTIVE DATE.—Except as otherwise provided therein, the amendments made by this subtitle shall take effect on January 1, 1996.

SEC. 4002. TERMINATION OF DIRECT LENDING.

(a) TERMINATION OF AUTHORITY.—

(1) PROGRAM AUTHORITY.—Section 451(a) of the Higher Education Act of 1965 (20 U.S.C. 1087a(a)) is amended by inserting ''and ending June 30, 1996'' after ''period beginning July 1, 1994''.

(2) TERMINATION OF FUNDING.—Section 452 of such Act (20 U.S.C. 1087b) is amended by adding at the end the following new subsection:

''(e) TERMINATION OF FUNDING.—The Secretary shall not provide funds under this section for loans for any academic year beginning on or after July 1, 1996. The Secretary shall not pay any fees pursuant to subsection (b) of this section on or after January 1, 1996.''.

(3) TERMINATION OF AUTHORITY TO ENTER NEW AGREEMENTS.—Section 453(a) of such Act (20 U.S.C. 1087c(a)) is amended—

(A) in paragraph (1), by inserting ''and ending before July 1, 1996'' after ''academic years beginning on or after July 1, 1994'';

(B) in paragraph (2)—

(i) by inserting ''and'' after the semicolon at the end of subparagraph (A);

(ii) by striking the semicolon at the end of subparagraph (B) and inserting a period; and

(iii) by striking subparagraphs (C) and (D); and

(C) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(b) ADMINISTRATIVE COST AMENDMENTS.—Section 458 of such Act (20 U.S.C. 1087h) of such Act is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (b) and (c) as subsections (f) and (g), respectively; and

(3) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—

''(1) DIRECT ADMINISTRATIVE COSTS.—Each fiscal year there shall be available to the Secretary of Education, from funds not otherwise appropriated, funds to be obligated for the subsidy costs of direct administrative costs under this part, subject to subsection (b) of this section.

''(2) INDIRECT ADMINISTRATIVE COSTS.—There shall also be available from funds available from funds not otherwise appropriated, funds to be obligated for indirect administrative costs under this part and part B, subject to subsection (c) of this section, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $345,000,000 in fiscal year 1995, $110,000,000 in fiscal year 1996 (of which $40,000,000 shall be available for administrative cost allowances for guaranty agencies for October through December of 1995), and $70,000,000 in each of the fiscal years 1997 through 2002.

''(3) REDUCTION.—The amount authorized to be made available for fiscal year 1997 under paragraph (2) shall be reduced by the amount of any unobligated unexpended funds available to carry out this subsection for any fiscal year prior to fiscal year 1996.

''(b) SUBSIDY COSTS.—For purposes of this section, 'subsidy cost' means the estimated long-term cost to the Federal Government of direct administrative expenses calculated on a net present value basis.

''(c) DIRECT ADMINISTRATIVE EXPENSES.—For purposes of this section, 'direct administrative expenses' shall consist of the cost of—

''(1) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants;

''(2) collection of delinquent loans; and

''(3) write-off and closeout of loans.

''(d) INDIRECT ADMINISTRATIVE EXPENSES.—For purposes of this section, 'indirect administrative expenses' shall consist of the cost of—

''(1) personnel engaged in developing program regulations, policy, and administrative guidelines;

''(2) audits of institutions and contractors;

''(3) program reviews; and

''(4) other oversight of the program.

''(e) LIMITATION ON PART D EXPENDITURES.—For any fiscal year, expenditures for indirect administrative expenses and for loan servicing for loans made pursuant to this part shall not exceed 30 percent of funds available pursuant to paragraph (2) for such fiscal year.''.

(c) ELIMINATION OF TRANSITION TO DIRECT LOANS.—Such Act is further amended—

(1) in section 422(c)(7) (20 U.S.C. 1072(c)(7))—

(A) by striking ''during the transition'' and all that follows through ''part D of this title'' in subparagraph (A); and

(B) by striking ''section 428(c)(10)(F)(v)'' in subparagraph (B) and inserting ''section 428(c)(9)(F)(v)'';

(2) in section 428(c)(8) (20 U.S.C. 1078(c)(8)), by striking subparagraph (B) and inserting the following:

''(B) Prior to making such determination for any guaranty agency, the Secretary shall, in consultation with the guaranty agency, develop criteria to determine whether such guaranty agency has made adequate collection efforts. In determining whether a guaranty agency's collection efforts have met such criteria, the Secretary shall consider the agency's record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.'';

(3) in section 428(c)(9)(E)—

(A) by inserting ''or'' after the semicolon at the end of clause (iv);

(B) by striking ''; or'' at the end of clause (v) and inserting a period; and

(C) by striking clause (vi);

(4) in clause (vii) of section 428(c)(9)(F)—

(A) by inserting ''and'' before ''to avoid disruption''; and

(B) by striking '', and to ensure an orderly transition'' and all that follows through the end of such clause and inserting a period;

(5) in section 428(c)(9)(K), by striking ''the progress of the transition from the loan programs under this part to'' and inserting ''the integrity and administration of'';

(6) in section 428(e)(1)(B)(ii), by striking ''during the transition'' and all that follows through ''part D of this title'';

(7) in section 428(e)(3), by striking ''of transition'';

(8) in section 428(j)(3)—

(A) by striking ''DURING TRANSITION TO DIRECT LENDING''; and

(B) by striking ''during the transition'' and all that follows through ''part D of this title,'' in subparagraph (A) and inserting a comma;

(9) in section 453(c)(2) (20 U.S.C. 1087c(c)(2)), by striking ''TRANSITION'' and inserting ''INSTITUTIONAL'';

(10) in section 453(c), by striking paragraph (3); and

(11) in section 456(b) (20 U.S.C. 1087f(b))—

(A) by inserting ''and'' after the semicolon at the end of paragraph (3);

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in such paragraph (4) (as redesignated), by striking ''successful operation'' and inserting ''integrity and efficiency''.

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ABILITY OF PART D BORROWERS TO OBTAIN FEDERAL STAFFORD CONSOLIDATION LOANS.—Section 428C(a)(4) of such Act (20 U.S.C. 1078–3(a)(4)) is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E); and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) made under part D of this title;''.

(2) CONFORMING AMENDMENTS.—Section 428C(b) of such Act (20 U.S.C. 1078–3(b)) is amended by striking paragraph (5).

SEC. 4003. ELIMINATION OF GRACE PERIOD INTEREST SUBSIDIES.

Section 428(a)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078(a)(3)) is amended by adding at the end the following new subparagraph:

''(C) Notwithstanding subparagraph (A), no portion of the interest which accrues after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution) and prior to the beginning of the repayment period of the loan shall be paid by the Secretary under this subsection on any loan made on or after January 1, 1996. Interest on the unpaid principal amount of any such loan during the interval described in the preceding sentence shall, at the option of the borrower—

''(i) be paid monthly or quarterly, or

''(ii) be added by the lender to the principal amount of the loan at the commencement of the repayment period.''.

SEC. 4004. PLUS PROGRAM REDUCTIONS.

(a) LOAN LIMITS.—Section 428B(b) of the Higher Education Act of 1965 (20 U.S.C. 1078-2(b)) is amended—

(1) by striking ''(b) LIMITATION BASED ON NEED.—'' and inserting the following:

''(b) ANNUAL LIMITS.—

''(1) LIMITATION BASED ON NEED.—'';

(2) by inserting before the last sentence thereof the following:

''(3) LIMITATION COMPUTED ON BASIS OF ACTUAL PAYMENTS.—''; and

(3) by inserting before paragraph (3) (as designated by the amendment made by paragraph (2) of this subsection) the following new paragraph:

''(2) DOLLAR LIMITATION.—Subject to paragraph (1), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulations of the Secretary) is $15,000.''.

(b) INTEREST REBATE.—Section 428B of such Act is further amended by adding at the end the following new subsection:

''(f) INTEREST REBATE.—

''(1) REBATE REQUIRED.—Each holder of a loan under this section made on or after the date of enactment of this subsection, shall pay, on June 30 and December 31 of each year, to the Secretary a rebate of subsidies in an amount equal to 0.8 percent of the outstanding principal balance of loans held on such date. Payment of such rebate shall be made not later than 60 days after each such date.

''(2) DEPOSIT OF REBATES.—The Secretary shall deposit all fees collected pursuant to paragraph (1) into the insurance fund established in section 431.''.

(c) PLUS LOANS INTEREST RATES.—Section 427A(c)(4) of such Act (20 U.S.C. 1077a(c)(4)) is amended by adding at the end the following new subparagraph:

''(F) Notwithstanding subparagraphs (A), (D), and (E), for any loan made pursuant to section 428B for which the first disbursement is made on or after January 1, 1996—

''(i) subparagraph (B) shall be applied by substituting '4.0' for '3.25'; and

''(ii) the interest rate shall not exceed 11 percent.''.

(d) CONFORMING AMENDMENT.—Section 427A(h) of such Act (20 U.S.C. 1077a(h)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 4005. LOAN TRANSFER FEE.

Section 428(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting ''; and''; and

(3) by adding at the end thereof the following new subparagraph:

''(G) provide that, if a lender or holder, on or after January 1, 1996, sells, transfers, or assigns a loan under this part, then the transferee shall pay to the Secretary a transfer fee in an amount equal to 0.20 percent of the principal of the loan, which transfer fee shall be deposited into the insurance fund established in section 431, except that the provisions of this subparagraph shall not apply to any such sale, transfer, or assignment by a lender or holder to such lender's or holder's affiliate or pursuant to a merger or other consolidation transaction.''.

SEC. 4006. LENDER FEES TO GUARANTY AGENCIES.

Subsection (f) of section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078(f)) is amended to read as follows:

''(f) PAYMENTS OF CERTAIN COSTS.—

''(1) PAYMENTS FROM LENDERS.—With respect to any loan under this part for which the first disbursement is made on or after January 1, 1996, the originating lender shall remit to the guaranty agency which guarantees the loan, a fee equal to 0.70 percent of the principal amount of the loan.

''(2) USE OF PAYMENTS.—Payments made pursuant to paragraph (1) shall be used for the purposes of—

''(A) the administrative costs of collections of loans;

''(B) the administrative costs of preclaim assistance and other predefault activities;

''(C) the administrative costs of monitoring the enrollment and repayment status of students; and

''(D) other such costs related to the student loan insurance program.

''(3) TIMING OF PAYMENTS.—Payments made pursuant to paragraph (1) shall be made at the time insurance premiums on such loans are paid to the guaranty agency.

''(4) PROHIBITION ON PASS-THROUGH.—No part of any payments required by this section shall be assessed or collected, directly or indirectly, from any borrower under this part.''.

SEC. 4007. ADDITIONAL LOAN PROGRAM CHANGES.

(a) RESERVE FUNDS.—

(1) AMENDMENTS TO SECTION 422.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended—

(A) in the last sentence of subsection (a)(2), by striking ''Except as provided in section 428(c)(10)(E) or (F), such unencumbered'' and inserting ''Such'';

(B) in subsection (g)(1), by striking ''or the program authorized by part D of this title'' each place it appears;

(C) in subsection (g)(1)(D), by striking ''(A) or (B)'' and inserting ''(A), (B), or (C)''; and

(D) in subsection (g), by striking paragraph (4) and inserting the following:

''(4) DISPOSITION OF FUNDS RETURNED TO OR RECOVERED BY THE SECRETARY.—Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3113(d) of title 31, United States Code.''.

(2) AMENDMENTS TO SECTION 428.—Section 428(c)(9)(A) of such Act (20 U.S.C. 1078(c)(9)(A)) is amended—

(A) by inserting ''and'' after the semicolon at the end of clause (i);

(B) by striking ''; and'' at the end of clause (ii) and inserting a period; and

(C) by striking clause (iii).

(b) APPLICATION FOR PART B LOANS USING FREE FEDERAL APPLICATION.—

(1) SINGLE FORM REQUIRED.—Section 483(a) of such Act (20 U.S.C. 1090(a)) is amended—

(A) in paragraph (1)—

(i) by inserting ''B,'' after ''assistance under parts A,'';

(ii) by striking ''and to determine the need of a student for the purpose of part B of this title''; and

(iii) by striking the last sentence and inserting the following: ''Such form may be in an electronic or any other format (subject to section 485B) in order to facilitate use by borrowers and institutions.''; and

(B) in paragraph (3), by striking ''and States shall receive,'' and inserting '', any guaranty agency authorized by any such institution, and States shall receive, at their request and''.

(2) USE OF ELECTRONIC FORMS.—Section 483(a) of such Act is further amended by adding the following new paragraph after paragraph (4):

''(5) ELECTRONIC FORMS.—(A) The Secretary, in cooperation with representatives of institutions of higher education, eligible lenders, and guaranty agencies, shall prescribe an electronic version of the form described in subsection (a)(1). Such electronic form shall not require signatures to be collected at the time such form is submitted if the data contained in the electronic form is certified in one or more separate writings. The Secretary shall prescribe the initial electronic form not later than 90 days after the date of enactment of this paragraph.

''(B) Nothing in this Act shall preclude the use of the electronic form prescribed under subparagraph (A) through software developed, produced, distributed (including by diskette, modem or network communication, or otherwise) or collected by eligible lenders, guaranty agencies, eligible institutions, or consortia thereof. Such organization or consortium shall submit such electronic form to the Secretary for review prior to its use. If such electronic form is inconsistent with the provisions of this part, the Secretary shall notify the submitting organization or consortium of his objection within 30 days of such submission, and shall specifically identify the necessary changes. In the absence of such an objection the organization or consortium may use the electronic form as submitted. No fee may be charged in connection with use of the electronic form, or of any other electronic forms used in conjunction with such form in applying for Federal or State student financial assistance.''.

(c) AMENDMENTS TO ELIGIBLE LENDER DEFINITION.—Section 435(d)(1) of such Act (20 U.S.C. 1085) is amended—

(1) by inserting before the semicolon at the end of subparagraph (A) the following: ''; and in determining whether the making or holding of loans to students and parents under this part is the primary consumer credit function of the eligible lender, loans made or held as trustee or in a trust capacity for the benefit of a third party shall not be considered'';

(2) by striking ''and'' at the end of subparagraph (I);

(3) in subparagraph (J), by striking the period and inserting ''; and''; and

(4) by adding at the end the following new subparagraph:

''(K) a wholly owned subsidiary of a publicly-held holding company which, as of the date of enactment of this subparagraph, through one or more subsidiaries (i) acts as a finance company, and (ii) participates in the program authorized by this part pursuant to subparagraph (C).''.

(d) ADDITIONAL AMENDMENTS TO SECTION 428.—

(1) AMENDMENTS.—Section 428 of such Act is further amended—

(A) in subsection (b)(1)(G), by striking ''98 percent'' and inserting ''95 percent'';

(B) in subsection (b)(1)(X), by striking ''section 428(c)(10)'' and inserting ''section 428(c)(9)'';

(C) in subsection (c)(1)(A), by striking ''98 percent'' and inserting ''96 percent'';

(D) in subsection (c)(1)(B)(i), by striking ''88 percent'' and inserting ''86 percent'';

(E) in subsection (c)(1)(B)(ii), by striking ''78 percent'' and inserting ''76 percent'';

(F) in subsection (c)(9)(C)(ii), by striking ''80 percent'' and inserting ''76 percent'';

(G) in subsection (c)(9)(I) by inserting ''on the record'' after ''for a hearing'';

(H) in subsection (j)(2)(A), by striking ''60'' and inserting ''15'';

(I) in subsection (j)(2)(B), by striking ''two rejections'' and inserting ''one rejection''; and

(J) in subsection (l)—

(i) by striking paragraph (2); and

(ii) by striking ''(1) ASSISTANCE REQUIRED.—''.

(2) EFFECTIVE DATE.—The amendments made by subparagraphs (A) and (C) through (F) of paragraph (1) of this subsection shall apply to loans on which the first disbursement of principal is made on or after January 1, 1996.

(e) REINSURANCE PERCENTAGE UNDER SECTION 428I.—Section 428I of such Act (20 U.S.C. 1078–9) is amended in subsection (b)(1)—

(1) by striking ''100 PERCENT'' in the heading and inserting ''95 PERCENT''; and

(2) by striking ''100 percent'' and inserting ''95 percent''.

(f) LOAN FEES FROM LENDERS.—Section 438(d)(2) of such Act (20 U.S.C. 1087–1(d)(2)) is amended to read as follows:

''(2) AMOUNT OF LOAN FEES.—The amount of the loan fee which shall be deducted under paragraph (1) shall be—

''(A) 0.50 percent of the principal amount of the loan, for any loan under this part for which the first disbursement was made on or after October 1, 1993, and before January 1, 1996; or

''(B) 0.30 percent of the principal amount of the loan, for any loan under this part for which the first disbursement was made on or after January 1, 1996.''.

(g) SMALL LENDER AUDIT EXEMPTION.—Section 428(b)(1)(U)(iii) of such Act (20 U.S.C. 1078(b)(1)(U)(iii)) is amended—

(1) by inserting ''in the case of any lender that originates or holds more than $5,000,000 in principal on loans made under this title in any fiscal year,'' before ''for (I)'';

(2) by inserting ''such'' before ''lender at least once'';

(3) by inserting ''such'' before ''a lender that is audited''; and

(4) by striking ''if the lender'' and inserting ''if such lender''.

SEC. 4008. USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.

Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

''(h) USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a guaranty agency shall use not less than 50 percent of such agency's reserve funds to purchase and hold defaulted loans that are guaranteed by such agency and for which a claim for insurance is filed with such agency by an eligible lender after the date of enactment of this subsection. The amount of such purchases shall be considered as reserve funds under this section and used in the calculation of the minimum reserve level under section 428(c)(9).

''(2) SPECIAL RULE.—A guaranty agency shall not be required to use its reserve funds to purchase and hold defaulted loans in accordance with paragraph (1) to the extent that—

''(A) the dollar volume of insurance claims filed with such agency does not amount to 50 percent of such agency's available reserve funds; or

''(B) such use is prohibited by State law; or

''(C) such use will compromise the ability of the guaranty agency to pay program expenses.''.

SEC. 4009. EXTENSION OF PERIOD A GUARANTY AGENCY MUST HOLD A DEFAULTED LOAN.

(a) EXEMPTION FOR EXTENDED HOLDING PERIOD.—The last sentence of section 428(c)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(1)(A)) is amended by striking out ''A guaranty agency'' and inserting ''Except as provided in section 428K, a guaranty agency''.

(b) NEW EXTENDED HOLDING PERIOD PROGRAM.—Part B of title IV of such Act (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J the following new section:

''SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RESERVE FUNDS.

''(a) LOANS SUBJECT TO EXTENDED HOLDING PERIOD.—Except as provided in subsection (b), a guaranty agency shall file a claim for reimbursement with respect to losses (resulting from the default of a student borrower) subject to reimbursement by the Secretary pursuant to section 428(c)(1) not less than 180 days nor more than 225 days after the guaranty agency discharges such agency's insurance obligation on a loan insured under this part. Such claim shall include losses on the unpaid principal and accrued interest of any such loan, including interest accrued from the date of such discharge to the date such agency files the claim for reimbursement from the Secretary.

''(b) LOANS EXCLUDED FROM EXTENDED HOLDING.—A guaranty agency may file a claim with respect to losses subject to reimbursement by the Secretary pursuant to section 428(c)(1) prior to 180 days after the date the guaranty agency discharges such agency's insurance obligation on a loan insured under this part, if—

''(1) such agency used 50 percent or more of such agency's reserve funds to purchase or hold loans in accordance with section 422(h);

''(2) such claim is based on an inability to locate the borrower and the guaranty agency certifies to the Secretary that—

''(A) diligent attempts were made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with section 428(c)(2)(G); and

''(B) such skip-tracing attempts to locate the borrower were unsuccessful; or

''(3) the guaranty agency determines that the borrower is unlikely to possess the financial resources to begin repaying the loan prior to 180 days after default by the borrower.

''(c) GUARANTY AGENCY EFFORTS DURING EXTENDED HOLDING PERIOD.—A guaranty agency shall attempt to bring a loan described in subsection (a) into repayment status prior to 180 days after the date the guaranty agency discharges its insurance obligation on the loan, so that no claim for reimbursement by the Secretary is necessary. Upon securing payment satisfactory to the guaranty agency during the 180-day period, such agency shall, if practicable, sell such loan to an eligible lender. Such loan shall not be sold to an eligible lender that the guaranty agency determines has substantially failed to exercise the due diligence required of lenders under this part.

''(d) REGULATION PROHIBITED.—The Secretary shall not regulate the collection activities of a guaranty agency with respect to a loan described in subsection (a) for which reinsurance has not been paid under section 428(c)(1).''.

SEC. 4010. PRIVATIZATION OF COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION.

(a) REPEAL OF STATUTORY RESTRICTIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1132f et seq.) is repealed.

(b) STATUS OF THE CORPORATION.—

(1) STATUS OF THE CORPORATION.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a ''Government corporation'' nor a ''Government controlled corporation'' as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act), shall be allowable against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall have the power to engage in any business or other activities for which corporations may be organized under the laws of any State of the United States or the District of Columbia. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of its affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—Except as provided in subsection (d)(2) of this section, no stock of the Corporation may be sold or issued to an agency, instrumentality, or establishment of the United States Government, to a Government corporation or a Government controlled corporation (as such terms are defined in section 103 of title 5, United States Code), or to a Government sponsored enterprise (as such term is defined in section 622 of title 2, United States Code). The Student Loan Marketing Association shall not own any stock of the Corporation, except that it may retain the stock it owns on the date of enactment. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise its right to appoint directors under section 754 of the Higher Education Act of 1965 as long as that section is in effect. The Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation. Notwithstanding the prohibitions in this subsection, the United States may pursue any remedy against a holder of the Corporation's stock to which it would otherwise be entitled.

(c) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—During the 5-year period following the date of the enactment of this Act, the Corporation shall include in any document offering the Corporation's securities, in any contracts for insurance, guarantee, or reinsurance of obligations, and in any advertisement or promotional material, a statement that—

(A) the Corporation is not a Government-sponsored enterprise or instrumentality of the United States; and

(B) the Corporation's obligations are not guaranteed by the full faith and credit of the United States.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform the requirements of this Act.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term ''College Construction Loan Insurance Association''.

(4) ARTICLES OF INCORPORATION.—The Corporation shall amend its articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) TRANSITION REQUIREMENTS.—

(A) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (a), the requirements of section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3), as in existence as of the day before enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (d) of this section.

(B) REPORTS AFTER STOCK SALE.—The Corporation shall, not later than March 30 of the first full calendar year immediately following the sale pursuant to subsection (d), and each of the 2 succeeding years, submit to the Secretary of Education a report describing the Corporation's efforts to assist in the financing of education facilities projects, including projects for elementary, secondary, and postsecondary educational institution infrastructure, and detailing, on a project-by-project basis, the Corporation's business dealings with educational institutions that are rated by a nationally recognized statistical rating organization at or below the organization's third highest ratings.

(d) SALE OF FEDERALLY OWNED STOCK.—

(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall make every effort to sell, pursuant to section 324 of title

31, United States Code, the stock of the Corporation owned by the Secretary of Education not later than 6 months after the date of the enactment of this Act.

(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within the period specified in paragraph (1), such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on independent appraisal by one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary's stock as determined by the Congressional Budget Office in House Report 104–153, dated June 22, 1995. Such firms shall be selected by the Secretary of the Treasury in consultation with the Secretary of Education and the Corporation.

(e) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this section.

(f) DEFINITION.—As used in this section, the term ''Corporation'' means the Corporation established pursuant to the provision of law repealed by subsection (a).

SEC. 4011. ELIGIBLE INSTITUTION.

(a) AMENDMENTS.—Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(1) by inserting before the period at the end of the first sentence the following: ''on the basis of a review by the institution's independent auditor using generally accepted accounting principles''; and

(2) by inserting after the end of such first sentence the following new sentences: ''For the purposes of clause (6), revenues from sources that are not derived from funds provided under this title include revenues from programs of education or training that do not meet the definition of an eligible program in subsection (e), but are provided on a contractual basis under Federal, State, or local training programs, or to business and industry. For the purposes of determining whether an institution meets the requirements of clause (6), the Secretary shall not consider the financial information of any institution for a fiscal year began on or before April 30, 1994.''.

(b) EFFECTIVE DATE.—Notwithstanding section 713 of this Act, the amendments made by subsection (a) shall apply to any determination made on or after July 1, 1994, by the Secretary of Education pursuant to section 481(b)(6) of the Higher Education Act of 1965.

SEC. 4012. EXTENSION OF PROGRAM DURATION.

Part B of title IV of the Higher Education Act of 1965 is amended—

(1) in section 424(a) (20 U.S.C. 1074(a)), by striking ''1998'' and inserting ''2002'';

(2) in section 428(a)(5) (20 U.S.C. 1078(a)(5))—

(A) by striking ''2002'' and inserting ''2006''; and

(B) by striking ''1998'' and inserting ''2002''; and

(3) in section 428C(e) (20 U.S.C. 1078-3(e)), by striking the first sentence and inserting ''The authority to make loans under this section expires at the close of September 30, 2002.''.

Subtitle B—Service Contract Repeal

SEC. 4101. SERVICE CONTRACT ACT OF 1965.

(a) REPEAL.—The Service Contract Act of 1965 (41 U.S.C. 351 et seq.) is repealed.

(b) APPLICATION.—The amendment made by subsection (a) shall not apply to a contract which was entered into before the 45th day after the date of the enactment of this Act and to which the Service Contract Act of 1965 applied.

Subtitle C—Provisions Relating to the Employee Retirement Income Security Act of 1974

SEC. 4201. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 205(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(3)(A)), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.

TITLE V—COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Subtitle A—Federal Employee and Congressional Benefits; Availability of Surplus Property for Homeless Assistance

SEC. 5001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.

Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out ''or 1996,'' and inserting in lieu thereof ''1996, 1997, 1998, 1999, 2000, 2001, or 2002,''.

SEC. 5002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: ''The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, Claims Court judge, or member of the Capitol Police, as the case may be, the percentage of basic pay applicable under subsection (c).''.

(2) AGENCY CONTRIBUTIONS.—

(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—

(i) by inserting ''(A)'' after ''(1)''; and

(ii) by adding at the end thereof the following new subparagraph:

''(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—

''(I) for each employing agency (other than the United States Postal Service) shall be 8.5 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9 percent of the basic pay of a law enforcement officer, a member of the Capitol Police, and a firefighter, and 9.5 percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

''(II) for the United States Postal Service shall be 7 percent of the basic pay of an employee and 9 percent of the basic pay of a law enforcement officer.''.

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(ii) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking out

''7	After December 31, 1969.''

and inserting in lieu thereof the following:

''7	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.'';

(B) in the matter relating to a Member or employee for Congressional employee service by striking out

''7½	After December 31, 1969.''

and inserting in lieu thereof the following:

''7.5	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.'';

(C) in the matter relating to a Member for Member service by striking out

''8	After December 31, 1969.''

and inserting in lieu thereof the following:

''8	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.'';

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out

''7½	After December 31, 1974.''

and inserting in lieu thereof the following:

''7.5	January 1, 1975, to December 31, 1995.
7.75	January 1, 1996, to December 31, 1996.
7.9	January 1, 1997, to December 31, 1997.
8	January 1, 1998, to December 31, 2002.
7.5	After December 31, 2002.'';

(E) in the matter relating to a bankruptcy judge by striking out

''8	After December 31, 1983.''

and inserting in lieu thereof the following:

''8	January 1, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.'';

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking out

''8	On and after the date of the enactment of the Department of Defense Authorization Act, 1984.''

and inserting in lieu thereof the following:

''8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.

8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.'';

(G) in the matter relating to a United States magistrate by striking out

''8	After September 30, 1987.''

and inserting in lieu thereof the following:

''8	October 1, 1987, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.'';

(H) in the matter relating to a Claims Court judge by striking out

''8	After September 30, 1988.''

and inserting in lieu thereof the following:

''8	October 1, 1988, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.'';

and

(I) by inserting after the matter relating to 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	July 1, 1942, to June 30, 1948.
	''6	July 1, 1948, to October 31, 1956.
	''6.5	November 1, 1956, to December 31, 1969.
	''7.5	January 1, 1970, to December 31, 1995.
	''7.75	January 1, 1996, to December 31, 1996.
	''7.9	January 1, 1997, to December 31, 1997.
	''8	January 1, 1998, to December 31, 2002.
	''7.5	After December 31, 2002.''.

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting ''and subject to paragraph (5),'' after ''Except as provided in subparagraph (B),''; and

(ii) by adding at the end thereof the following new paragraph:

''(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).''.

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: ''This paragraph shall be subject to paragraph (4).''; and

(ii) by adding at the end thereof the following new paragraph:

''(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee.''.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

''(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

''(A) the applicable percentage under paragraph (3), minus

''(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

''(3) The applicable percentage under this paragraph, for civilian service shall be as follows:

	''Percentage of basic pay	Service period
Employee	7	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Congressional employee	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Member	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Law enforcement officer, firefighter, 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.''

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting ''and subject to paragraph (6),'' after ''Except as provided in subparagraph (B),''; and

(ii) by adding at the end thereof the following:

''(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

''(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

''(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

''(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.''.

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: ''This paragraph shall be subject to paragraph (4).''; and

(ii) by adding at the end the following:

''(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

''(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

''(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

''(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.''.

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.

SEC. 5003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(a) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting ''or Member'' after ''employee''; and

(B) by striking out subsections (b) and (c).

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking out subsections (b) and (c);

(B) in subsections (a) and (g) by inserting ''or Member'' after ''employee'' each place it appears; and

(C) in subsection (g)(2) by striking out ''Congressional employee''.

(3) CAPITOL POLICE.—Section 8339(q) of title 5, United States Code, is amended—

(A) by striking ''subsection (b),'' and inserting ''subsection (b) (as last in effect),''; and

(B) by striking ''subsection (b)(2),'' and inserting ''subsection (b)(2) (as last in effect),''.

(b) ADMINISTRATIVE REGULATIONS.—The Secretary of the Senate and the Clerk of the House of Representatives, in consultation with the Office of Personnel Management, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(c) EFFECTIVE DATES.—

(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—(A) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply only with respect to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed on or after January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.

(B) An annuity shall be computed as though the amendments made under subsection (a) had not been enacted with respect to—

(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before January 1, 1996.

(2) REGULATIONS.—The provisions of subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5004. FEDERAL EMPLOYEES RETIREMENT SECURITY COMMISSION.

(a) ESTABLISHMENT.—There shall be established in the legislative branch a commission to be known as the ''Federal Employees Retirement Security Commission'' (hereinafter in this section referred to as the ''Commission'').

(b) MEMBERS.—

(1) APPOINTMENT.—The Commission shall be composed of 7 members, to be appointed within 30 days after the date of the enactment of this Act, as follows:

(A) 2 members appointed by the Speaker of the House of Representatives.

(B) 2 members appointed by the majority leader of the Senate.

(C) 1 member appointed by the minority leader of the House of Representatives.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed by the President.

(2) CHAIRMAN; VICE CHAIRMAN.—The members of the Commission shall select 1 of the members to be the Chairman and another to be the Vice Chairman of the Commission.

(3) TERMS.—Each member shall be appointed for the life of the Commission.

(4) PAY AND TRAVEL EXPENSES.—

(A) PAY GENERALLY.—Each member, other than the Chairman, shall be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Commission.

(B) PAY FOR THE CHAIRMAN.—The Chairman shall be paid, for each day referred to in subparagraph (A), at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(C) TRAVEL EXPENSES.—Each member of the Commission shall, subject to the availability of appropriations and in such amounts as may be provided by such Act, be allowed travel expenses in the same manner as any individual employed intermittently by the Government is allowed travel expenses under section 5703 of title 5, United States Code.

(D) GOVERNMENT EMPLOYEES AND MEMBERS OF CONGRESS.—Notwithstanding any other provision of this paragraph, members of the Commission who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Commission, except for travel expenses under subparagraph (C).

(5) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) MEETINGS.—

(1) OPEN MEETINGS.—Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

(2) ACCESS BY REQUEST.—

(A) IN GENERAL.—All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the Chairman and the ranking minority party member of the respective committees under subparagraph (B) or such chairmen or ranking minority party members of subcommittees of any such committee as may be designated by the Chairman or ranking minority party member, respectively, of such committee.

(B) IDENTIFICATION OF COMMITTEES.—The committees under this subparagraph are as follows:

(i) The Committee on Government Reform and Oversight of the House of Representatives.

(ii) The Committee on National Security of the House of Representatives.

(iii) The Committee on Governmental Affairs of the Senate.

(iv) The Committee on Armed Services of the Senate.

(3) FIRST MEETING.—The Commission shall hold its first meeting within 60 days after the date of the enactment of this Act.

(d) DIRECTOR; STAFF.—

(1) DIRECTOR.—The Commission shall have a Director, who—

(A) shall be appointed by the Commission; and

(B) shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) STAFF.—

(A) APPOINTMENTS; PAY.—The Director, with the approval of the Commission, may appoint and fix the pay of additional personnel, except that no individual so appointed may receive pay at a rate in excess of the maximum rate of basic pay payable under section 5376 of title 5, United States Code, for positions classified above GS-15 of the General Schedule.

(B) DETAILS FROM CONGRESSIONAL COMMITTEES AND OFFICES.—Upon the request of the Director, the chairman of any standing committee or other committee of either House or both Houses of the Congress, or the head of any other congressional office, may detail any of the personnel of that committee or office to the Commission to assist the Commission in carrying out its duties under this Act.

(C) ASSISTANCE FROM GAO.—The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(e) DUTIES.—

(1) IN GENERAL.—The Commission shall study and, within 7 months after the date of the enactment of this Act, submit to the Congress a written report on—

(A) the financial soundness of the retirement systems for Government employees (including employees of nonappropriated fund instrumentalities) and members of the uniformed services;

(B) the cost and level of benefits provided by the Civil Service Retirement System, the Federal Employees' Retirement System, and the other retirement systems under subparagraph (A), as compared with the cost and level of benefits of retirement systems prevalent in the private sector;

(C) the appropriate level and design of benefits of an alternative retirement system and modifications of existing systems to achieve the objectives described in paragraph (2); and

(D) the cost and suitability of benefits provided by the military retirement system, and their appropriateness in light of current and projected military readiness requirements.

(2) CONSIDERATIONS.—The considerations described in this paragraph are as follows:

(A) Portability of benefits, consistent with the greater mobility anticipated with respect to the workforce of the 21st century.

(B) Financial soundness, consistent with the requirements of the Employee Retirement Income Security Act of 1974 and the requirements that must be met in order to qualify to be insured by the Pension Benefit Guarantee Corporation.

(C) The Government's presence in a wide range of occupations and local labor markets, and the need for retirement benefits to be representative of the level of benefits received by most Americans in the private sector in order to allow the Government to recruit and retain a qualified workforce.

(D) Total compensation trends in the private sector, including the use of cafeteria plans.

(3) CONTENTS.—The Commission's report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for any legislation that the Commission considers appropriate.

(f) OTHER AUTHORITY.—

(1) EXPERTS AND CONSULTANTS.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants subject to the same terms and conditions as would apply under section 3109 of title 5, United States Code, in the case of an Executive agency.

(2) LEASES.—The Commission may lease space and acquire personal property to the extent funds are available.

(g) FUNDING.—There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this Act. Such funds shall remain available until expended.

(h) TERMINATION.—The Commission shall cease to exist 30 days after submitting its report to the Congress under subsection (e).

SEC. 5005. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) REPEAL.—

(1) IN GENERAL.—Section 2004 of title 39, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking ''sections 2401 and 2004'' each place it appears and inserting ''section 2401''.

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

''(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall be effective as of October 1, 1995.

(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1996.—

(A) AMOUNTS NOT YET PAID.—No payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1996 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section).

(B) AMOUNTS PAID.—If any payment to the Postal Service Fund is or has been made pursuant to an appropriation for fiscal year 1996 authorized by such section 2004, then an amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts.

SEC. 5006. AVAILABILITY OF SURPLUS PROPERTY FOR HOMELESS ASSISTANCE.

(a) REPEAL.—(1) Title V of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 et seq.) is repealed.

(2) The table of contents in section 101(b) of that Act is amended by striking the items relating to title V.

(3) This subsection shall be effective October 1, 1995.

(b) AUTHORITY TO TRANSFER SURPLUS REAL PROPERTY FOR HOUSING USE.—Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended by adding at the end the following:

''(r) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any nonprofit organization which exists for the primary purpose of providing housing or housing assistance for homeless individuals or families, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

''(s)(1) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any non-profit organization which exists for the primary purpose of providing housing or housing assistance for low-income individuals or families such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

''(2) In making transfers under this subsection, the Administrator shall take such actions, which may include grant agreements with an organization receiving a grant, as may be necessary to ensure that—

''(A) assistance provided under this subsection is used to facilitate and encourage homeownership opportunities through the construction of self-help housing, under terms which require that the person receiving the assistance contribute a significant amount of labor toward the construction; and

''(B) the dwellings constructed with property transferred under this subsection shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below the prevailing market prices.''.

Subtitle B—Debt Collection Improvement Act of 1995

SEC 5201. SHORT TITLE.

This subtitle may be cited as the ''Debt Collection Improvement Act of 1995''.

SEC. 5202. TABLE OF CONTENTS.

The table of contents for this subtitle is as follows:

SEC. 5203. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, the provisions of this subtitle and the amendments made by this subtitle shall become effective October 1, 1995.

SEC. 5204. PURPOSES.

The purposes of this subtitle are the following:

(1) To maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools.

(2) To minimize the costs of debt collection by consolidating related functions and activities and utilizing interagency teams.

(3) To reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among Federal agencies.

(4) To ensure that the public is fully informed of the Federal Government's debt collection policies and that debtors are cognizant of their financial obligations to repay amounts owed to the Federal Government.

(5) To ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

(6) To encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral.

(7) To rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies.

PART I—GENERAL DEBT COLLECTION INITIATIVES

Subpart A—General Offset Authority

SEC. 5211. EXPANSION OF ADMINISTRATIVE OFFSET AUTHORITY.

Chapter 37 of title 31, United States Code, is amended—

(1) in each of sections 3711, 3716, 3717, and 3718, by striking ''the head of an executive or legislative agency'' each place it appears and inserting ''the head of an executive, judicial, or legislative agency''; and

(2) by amending section 3701(a)(4) to read as follows:

''(4) 'executive, judicial, or legislative agency' means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of government, including government corporations.''.

SEC. 5212. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) PERSONS SUBJECT TO ADMINISTRATIVE OFFSET.—Section 3701(c) of title 31, United States Code, is amended to read as follows:

''(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government.''.

(b) REQUIREMENTS AND PROCEDURES.—Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

''(b) Before collecting a claim by administrative offset, the head of an executive, judicial, or legislative agency must either—

''(1) adopt, without change, regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office, or the Department of the Treasury; or

''(2) prescribe regulations on collecting by administrative offset consistent with the regulations referred to in paragraph (1).'';

(2) by amending subsection (c)(2) to read as follows:

''(2) when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.'';

(3) by redesignating subsection (c) as subsection (e); and

(4) by inserting after subsection (b) the following new subsections:

''(c)(1)(A) Except as otherwise provided in this subsection, a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any other government corporation, or any disbursing official of the United States designated by the Secretary of the Treasury, shall offset at least annually the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement, by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

''(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

''(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965 shall not be subject to administrative offset under this subsection.

''(2) Neither the disbursing official nor the payment certifying agency shall be liable—

''(A) for the amount of the administrative offset on the basis that the underlying obligation, represented by the payment before

the administrative offset was taken, was not satisfied; or

''(B) for failure to provide timely notice under paragraph (8).

''(3) The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency. The Secretary may exempt other payments from administrative offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program. The Secretary shall report to the Congress annually on exemptions granted under this section.

''(4) The Secretary of the Treasury may charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring a claim for those amounts. Fees charged to the agencies shall be based on actual administrative offsets completed. Amounts received by the United States as fees under this subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(4) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

''(5) The Secretary of the Treasury may disclose to a creditor agency the current address of any payee and any data related to certifying and authorizing payments to a payee in accordance with section 552a of title 5, United States Code, even if the payment has been exempt from administrative offset. If a payment is made electronically, the Secretary may obtain the current address of the payee from the institution receiving the payment. Upon request by the Secretary, the institution receiving the payment shall report the current address of the payee to the Secretary.

''(6) The Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary of the Treasury considers necessary to carry out this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

''(7) Any Federal agency that is owed by a person a past due, legally enforceable nontax debt that is over 180 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

''(8)(A) The disbursing official conducting an administrative offset with respect to a payment to a payee shall notify the payee in writing of—

''(i) the occurrence of the administrative offset to satisfy a past due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the payee against which the offset was executed;

''(ii) the identity of the creditor agency requesting the offset; and

''(iii) a contact point within the creditor agency that will handle concerns regarding the offset.

''(B) If the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the administrative offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such administrative offset.

''(9) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for administrative offset pursuant to other laws.

''(d) Nothing in this section is intended to prohibit the use of any other administrative offset authority existing under statute or common law.''.

(c) NONTAX DEBT OR CLAIM DEFINED.—Section 3701 of title 31, United States Code, is amended—

(1) in subsection (b) by inserting ''and subsection (a)(8) of this section'' after ''of this chapter''; and

(2) in subsection (a) by adding at the end the following new paragraph:

''(8) 'nontax' means, with respect to any debt or claim, any debt or claim other than a debt or claim under the Internal Revenue Code of 1986.''.

SEC. 5213. EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS UNDER THE PRIVACY ACT OF 1974.

Section 3716 of title 31, United States Code, as amended by section 5212(b) of this subtitle, is further amended by adding at the end the following new subsections:

''(f) The Secretary may waive the requirements of sections 552a(o) and (p) of title 5 for administrative offset or claims collection upon written certification by the head of the executive, judicial, or legislative agency seeking to collect the claim that the requirements of subsection (a) of this section have been met.

''(g) The Data Integrity Board of the Department of the Treasury established under 552a(u) of title 5 shall review and include in reports under paragraph (3)(D) of that section a description of any matching activities conducted under this section. If the Secretary has granted a waiver under subsection (f) of this section, no other Data Integrity Board is required to take any action under section 552a(u) of title 5.''.

SEC. 5214. USE OF ADMINISTRATIVE OFFSET AUTHORITY FOR DEBTS TO STATES.

Section 3716 of title 31, United States Code, as amended by sections 5212 and 5213 of this subtitle, is further amended by adding at the end the following new subsection:

''(h)(1) The Secretary may, in the discretion of the Secretary, apply subsection (a) with respect to any past-due, legally-enforceable debt owed to a State if—

''(A) the appropriate State disbursing official requests that an offset be performed; and

''(B) a reciprocal agreement with the State is in effect which contains, at a minimum—

''(i) requirements substantially equivalent to subsection (b) of this section; and

''(ii) any other requirements which the Secretary considers appropriate to facilitate the offset and prevent duplicative efforts.

''(2) This subsection does not apply to—

''(A) the collection of a debt or claim on which the administrative costs associated with the collection of the debt or claim exceed the amount of the debt or claim;

''(B) any collection of any other type, class, or amount of claim, as the Secretary considers necessary to protect the interest of the United States; or

''(C) the disbursement of any class or type of payment exempted by the Secretary of the Treasury at the request of a Federal agency.''.

SEC. 5215. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting ''section 3716 and section 3720A of this title and'' after ''Except as provided in'';

(2) in section 3325(a)(3), by inserting ''or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A of this title,'' after ''voucher''; and

(3) in each of sections 3711(e)(2) and 3717(h) by inserting '', the Secretary of the Treasury,'' after ''Attorney General''.

(b) INTERNAL REVENUE CODE OF 1986.—Subsection 6103(l)(10)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(10)(A)) is amended—

(1) in subparagraph (A), by inserting ''and to officers and employees of the Department of the Treasury in connection with such reduction'' after ''6402''; and

(2) in subparagraph (B), by inserting ''and officers and employees of the Department of the Treasury'' after ''agency'' the first place it appears.

Subpart B—Salary Offset Authority

SEC. 5221. ENHANCEMENT OF SALARY OFFSET AUTHORITY.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by adding at the end of paragraph (1) the following: ''All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.'';

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

(C) by inserting after paragraph (2) the following new paragraph:

''(3) Paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, if at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.''; and

(D) by amending paragraph (5)(B) (as redesignated by subparagraph (B) of this paragraph) to read as follows:

''(B) 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the Senate, the House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.'';

(2) by adding after subsection (c) the following new subsection:

''(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over deductions under this section.''.

Subpart C—Taxpayer Identifying Numbers

SEC. 5231. ACCESS TO DEBTOR INFORMATION.

Section 4 of the Debt Collection Act of 1982 (Public Law 97–365, 96 Stat. 1749, 26 U.S.C. 6103 note) is amended—

(1) in subsection (b), by striking ''For purposes of this section'' and inserting ''For purposes of subsection (a)''; and

(2) by adding at the end the following new subsections:

''(c) FEDERAL AGENCIES.—

''(1) IN GENERAL.—Each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

''(2) DOING BUSINESS.—For purposes of this subsection, a person shall be considered to be doing business with a Federal agency if the person is—

''(A) a lender or servicer in a Federal guaranteed or insured loan program administered by the agency;

''(B) an applicant for, or recipient of—

''(i) a Federal guaranteed, insured, or direct loan administered by the agency; or

''(ii) a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency;

''(C) a contractor of the agency;

''(D) assessed a fine, fee, royalty or penalty by the agency; and

''(E) in a relationship with the agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan administered by the agency.

''(3) DISCLOSURE.—Each agency shall disclose to a person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'taxpayer identifying number' has the meaning given such term in section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109); and

''(B) the term 'person'—

''(i) subject to clause (ii), means an individual, sole proprietorship, partnership, corporation, or nonprofit organization, or any other form of business association; and

''(ii) does not include debtors under third party claims of the United States, other than debtors owing claims resulting from petroleum pricing violations.

''(d) ACCESS TO DEBTOR INFORMATION.—Notwithstanding section 552a(b) of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with Department of Health and Human Services and Department of Labor records to obtain names (including names of employees), name controls, names of employers, social security account numbers, addresses (including addresses of employers), and dates of birth. The Department of Health and Human Services and the Department of Labor shall release that information to creditor agencies and may charge reasonable fees sufficient to pay the costs associated with that release.

''(e) ELECTRONIC PAYMENTS.—If a payment is made electronically by any executive, judicial, or legislative agency, the Secretary of the Treasury may obtain from the institution receiving the payment the taxpayer identification number of any joint holder of the account to which the payment is made. Upon request of the Secretary, the institution receiving the payment shall report the taxpayer identification number of the joint holder to the Secretary.''.

SEC. 5232. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 3720A the following new section:

''§ 3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees

''(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan) or loan guarantee administered by the agency if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional loans or loan guarantees only after such delinquency is resolved in accordance with those standards. The Secretary of the Treasury may exempt, at the request of an agency, any class of claims.

''(b) The head of a Federal agency may delegate the waiver authority under subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

''(c) For purposes of this section, the term 'person' means—

''(1) an individual; or

''(2) any sole proprietorship, partnership, corporation, nonprofit organization, or other form of business association.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

''3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.''.

Subpart D—Expansion and Enhancement of Collection Authorities

SEC. 5241. DISCLOSURE TO CONSUMER REPORTING AGENCIES AND COMMERCIAL REPORTING AGENCIES.

Section 3711(f) of title 31, United States Code, is amended—

(1) by striking ''may'' the first place it appears and inserting ''shall'';

(2) by striking ''an individual'' each place it appears and inserting ''a covered person'';

(3) by striking ''the individual'' each place it appears and inserting ''the covered person''; and

(4) by adding at the end the following new paragraphs:

''(4) The head of each executive agency shall require, as a condition for guaranteeing any loan, financing, or other extension of credit under any law to a covered person, that the lender provide information relating to the extension of credit to consumer reporting agencies or commercial reporting agencies, as appropriate.

''(5) The head of each executive agency may provide to a consumer reporting agency or commercial reporting agency information from a system of records that a covered person is responsible for a claim which is current, if notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency or commercial reporting agency, respectively.

''(6) In this subsection, the term 'covered person' means an individual, a sole proprietorship, a corporation (including a nonprofit corporation), or any other form of business association.''.

SEC. 5242. CONTRACTS FOR COLLECTION SERVICES.

Section 3718 of title 31, United States Code, is amended—

(1) in subsection (a), by striking the first sentence and inserting the following: ''Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets.''; and

(2) in subsection (d), by inserting '', or to locate or recover assets of,'' after ''owed''.

SEC. 5243. CROSS-SERVICING PARTNERSHIPS AND CENTRALIZATION OF DEBT COLLECTION ACTIVITIES IN THE DEPARTMENT OF THE TREASURY.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsections:

''(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

''(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

''(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

''(2) Paragraph (1) shall not apply—

''(A) to any debt or claim that—

''(i) is in litigation or foreclosure;

''(ii) will be disposed of under an asset sales program within 1 year after the date the debt or claim is first delinquent, or a greater period of time if a delay would be in the best interests of the United States, as determined by the Secretary of the Treasury;

''(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

''(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

''(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

''(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

''(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

''(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

''(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

''(B) a contractor operating under a contract for servicing or collection action; or

''(C) the Department of Justice for litigation.

''(5) nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action

thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

''(A) maintain competition in carrying out this subsection;

''(B) maximize collections of delinquent debts by placing delinquent debts quickly;

''(C) maintain a schedule of contractors and debt collection centers eligible for referral of claims; and

''(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

''(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

''(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

''(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

''(B) personnel training and travel costs;

''(C) other personnel and administrative costs;

''(D) the costs of any contract for identification, billing, or collection services; and

''(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

''(8) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

''(9) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary.

''(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a)(1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

''(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).''.

SEC. 5244. COMPROMISE OF CLAIMS.

Section 11 of the Administrative Dispute Resolution Act (Public Law 101–552, 104 Stat. 2736, 5 U.S.C. 571 note) is amended by adding at the end the following sentence: ''This section shall not apply to section 8(b) of this Act.''.

SEC. 5245. WAGE GARNISHMENT REQUIREMENT.

(a) IN GENERAL.—Chapter 37 of title 31, United States Code, is amended in subchapter II by adding after section 3720C, as added by section 5261 of this subtitle, the following new section:

''§ 3720D. Garnishment

''(a) Notwithstanding any provision of State law, the head of an executive, judicial, or legislative agency that administers a program that gives rise to a delinquent nontax debt owed to the United States by an individual may in accordance with this section garnish the disposable pay of the individual to collect the amount owed, if the individual is not currently making required repayment in accordance with any agreement between the agency head and the individual.

''(b) In carrying out any garnishment of disposable pay of an individual under subsection (a), the head of an executive, judicial, or legislative agency shall comply with the following requirements:

''(1) The amount deducted under this section for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual.

''(2) The individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the head of the executive, judicial, or legislative agency, informing the individual of—

''(A) the nature and amount of the debt to be collected;

''(B) the intention of the agency to initiate proceedings to collect the debt through deductions from pay; and

''(C) an explanation of the rights of the individual under this section.

''(3) The individual shall be provided an opportunity to inspect and copy records relating to the debt.

''(4) The individual shall be provided an opportunity to enter into a written agreement with the executive, judicial, or legislative agency, under terms agreeable to the head of the agency, to establish a schedule for repayment of the debt.

''(5) The individual shall be provided an opportunity for a hearing in accordance with subsection (c) on the determination of the head of the executive, judicial, or legislative agency concerning—

''(A) the existence or the amount of the debt, and

''(B) in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), the terms of the repayment schedule.

''(6) If the individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of the individual until the individual has been reemployed continuously for at least 12 months.

''(c)(1) A hearing under subsection (b)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (b)(2), and in accordance with such procedures as the head of the executive, judicial, or legislative agency may prescribe, files a petition requesting such a hearing.

''(2) If the individual does not file a petition requesting a hearing prior to such date, the head of the agency shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order.

''(3) The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

''(d) The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

''(e)(1) An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action.

''(2) The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

''(f)(1) The employer of an individual—

''(A) shall pay to the head of an executive, judicial, or legislative agency as directed in a withholding order issued in an action under this section with respect to the individual, and

''(B) shall be liable for any amount that the employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages.

''(2)(A) The head of an executive, judicial, or legislative agency may sue an employer in a State or Federal court of competent jurisdiction to recover amounts for which the employer is liable under paragraph (1)(B).

''(B) A suit under this paragraph may not be filed before the termination of the collection action, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period.

''(3) Notwithstanding paragraphs (1) and (2), an employer shall not be required to vary its normal pay and disbursement cycles in order to comply with this subsection.

''(g) For the purpose of this section, the term 'disposable pay' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by any other law to be withheld.

''(h) The Secretary of the Treasury shall issue regulations to implement this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720C (as added by section 5261 of this subtitle) the following new item:

''3720D. Garnishment.''.

SEC. 5246. DEBT SALES BY AGENCIES.

Section 3711 of title 31, United States Code, is further amended by adding at the end the following new subsection:

''(h)(1) The head of an executive, judicial, or legislative agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures,

any nontax debt owed to the United States that is delinquent for more than 90 days. Appropriate fees charged by a contractor to assist in the conduct of a sale under this subsection may be payable from the proceeds of the sale.

''(2) After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, if the Secretary of the Treasury determines the sale is in the best interest of the United States.

''(3) Sales of nontax debt under this subsection—

''(A) shall be for—

''(i) cash, or

''(ii) cash and a residuary equity or profit participation, if the head of the agency reasonably determines that the proceeds will be greater than sale solely for cash,

''(B) shall be without recourse, but may include the use of guarantees if otherwise authorized, and

''(C) shall transfer to the purchaser all rights of the Government to demand payment of the nontax debt, other than with respect to a residuary equity or profit participation under subparagraph (A)(ii).

''(4)(A) Within one year after the date of enactment of the Debt Collection Improvement Act of 1995, and every year thereafter, each executive agency with current and delinquent collateralized nontax debts shall report to the Congress on the valuation of its existing portfolio of loans, notes and guarantees, and other collateralized debts based on standards developed by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury.

''(B) The Director of the Office of Management and Budget shall determine what information is required to be reported to comply with subparagraph (A). At a minimum, for each financing account and for each liquidating account (as those terms are defined in sections 502(7) and 502(8), respectively, of the Federal Credit Reform Act of 1990) the following information shall be reported:

''(i) The cumulative balance of current debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

''(ii) The cumulative balance of delinquent debts, debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

''(iii) The cumulative balance of guaranteed loans outstanding, the estimated net present value of such guarantees, the annual administrative expenses of such guarantees (including the portion of salaries and expenses that are directly related to such guaranteed loans), and the estimated net proceeds that would be received by the Government if such loan guarantees were sold.

''(iv) The cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivables, the estimated net present value of such loan assets, the annual administrative expenses of such loan assets (including the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received by the Government if such loan assets were sold.

''(v) The marketability of all debts.

''(5) This subsection is not intended to limit existing statutory authority of agencies to sell loans, debts, or other assets.''.

SEC. 5247. ADJUSTMENTS OF ADMINISTRATIVE DEBT.

Section 3717 of title 31, United States Code, is amended by adding at the end of subsection (h) the following new subsection:

''(i)(1) The head of an executive, judicial, or legislative agency may increase an administrative claim by the cost of living adjustment in lieu of charging interest and penalties under this section. Adjustments under this subsection will be computed annually.

''(2) For the purpose of this subsection—

''(A) the term 'cost of living adjustment' means the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the claim was determined or last adjusted; and

''(B) the term 'administrative claim' includes all debt that is not based on an extension of Government credit through direct loans, loan guarantees, or insurance, including fines, penalties, and overpayments.''.

SEC. 5248. DISSEMINATION OF INFORMATION REGARDING IDENTITY OF DELINQUENT DEBTORS.

(a) IN GENERAL.—Chapter 37 of title 31, United States Code, is amended in subchapter II by adding after section 3720D, as added by section 5245 of this subtitle, the following new section:

''§ 3720E. Dissemination of information regarding identity of delinquent debtors

''(a) The head of any agency may, with the review of the Secretary of the Treasury, for the purpose of collecting any delinquent nontax debt owed by any person, publish or otherwise publicly disseminate information regarding the identity of the person and the existence of the nontax debt.

''(b)(1) The Secretary of the Treasury, in consultation with the Director of the Office of Management and Budget and the heads of other appropriate Federal agencies, shall issue regulations establishing procedures and requirements the Secretary considers appropriate to carry out this section.

''(2) Regulations under this subsection shall include—

''(A) standards for disseminating information that maximize collections of delinquent nontax debts, by directing actions under this section toward delinquent debtors that have assets or income sufficient to pay their delinquent nontax debt;

''(B) procedures and requirements that prevent dissemination of information under this section regarding persons who have not had an opportunity to verify, contest, and compromise their nontax debt in accordance with this subchapter; and

''(C) procedures to ensure that persons are not incorrectly identified pursuant to this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by adding after the item relating to section 3720D (as added by section 5245 of this subtitle) the following new item:

''3720E. Dissemination of information regarding identity of delinquent debtors.''.

Subpart E—Federal Civil Monetary Penalties

SEC. 5251. ADJUSTING FEDERAL CIVIL MONETARY PENALTIES FOR INFLATION.

(a) IN GENERAL.—The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890; 28 U.S.C. 2461 note) is amended—

(1) by amending section 4 to read as follows:

''SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1995, and at least once every 4 years thereafter—

''(1) by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986, the Tarriff Act of 1930, or the Social Security Act, by the inflation adjustment described under section 5 of this Act; and

''(2) publish each such regulation in the Federal Register.'';

(2) in section 5(a), by striking ''The adjustment described under paragraphs (4) and (5)(A) of section 4'' and inserting ''The inflation adjustment under section 4''; and

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

''SEC. 7. Any increase under this Act in a civil monetary penalty shall apply only to violations which occur after the date the increase takes effect.''.

(b) LIMITATION ON INITIAL ADJUSTMENT.—The first adjustment of a civil monetary penalty made pursuant to the amendment made by to subsection (a) may not exceed 10 percent of such penalty.

Subpart F—Gain Sharing

SEC. 5261. DEBT COLLECTION IMPROVEMENT ACCOUNT.

(a) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 3720B (as added by section 5232 of this subtitle) the following new section:

''§ 3720C. Debt Collection Improvement Account

''(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter in this section referred to as the 'Account').

''(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that agency programs are credited with amounts transferred under subsection (b)(1).

''(b)(1) Not later than 30 days after the end of a fiscal year, an agency may transfer to the Account the amount described in paragraph (3), as adjusted under paragraph (4).

''(2) Agency transfers to the Account may include collections from—

''(A) salary, administrative, and tax refund offsets;

''(B) automated levy authority;

''(C) the Department of Justice;

''(D) private collection agencies;

''(E) sales of delinquent loans; and

''(F) contracts to locate or recover assets.

''(3) The amount referred to in paragraph (1) shall be 5 percent of the amount of delinquent debt collected by an agency in a fiscal year, minus the greater of—

''(A) 5 percent of the amount of delinquent nontax debt collected by the agency in the previous fiscal year, or

''(B) 5 percent of the amount of delinquent nontax debt collected by the agency in the previous 4 fiscal years.

''(4) In consultation with the Secretary of the Treasury, the Office of Management and Budget may adjust the amount described in paragraph (3) for an agency to reflect the level of effort in credit management programs by the agency. As an indicator of the level of effort in credit management, the Office of Management and Budget shall consider the following:

''(A) The number of days between the date a claim or debt became delinquent and the date which an agency referred the debt or claim to the Secretary of the Treasury or obtained an exemption from this referral under section 3711(g)(2) of this title.

''(B) The ratio of delinquent debts or claims to total receivables for a given program, and the change in this ratio over a period of time.

''(c)(1) The Secretary of the Treasury may make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, such payments may be credited to subaccounts designated for debt collection.

''(2) For purposes of this section, the term 'qualified expenses' means expenditures for the improvement of credit management, debt collection, and debt recovery activities, including—

''(A) account servicing (including cross-servicing under section 3711(g) of this title),

''(B) automatic data processing equipment acquisitions,

''(C) delinquent debt collection,

''(D) measures to minimize delinquent debt,

''(E) sales of delinquent debt,

''(F) asset disposition, and

''(G) training of personnel involved in credit and debt management.

''(3)(A) Amounts in the Account shall be available to the Secretary of the Treasury for purposes of this section to the extent and in amounts provided in advance in appropriation Acts.

''(B) As soon as practicable after the end of the third fiscal year after which appropriations are made pursuant to this section, and every 3 years thereafter, any unappropriated balance in the Account shall be transferred to the general fund of the Treasury as miscellaneous receipts.

''(d) For direct loans and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs.

''(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary considers necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B (as added by section 5232 of this subtitle) the following new item:

''3720C. Debt Collection Improvement Account.''.

Subpart G—Tax Refund Offset Authority

SEC. 5271. EXPANDING TAX REFUND OFFSET AUTHORITY.

(a) DISCRETIONARY AUTHORITY.—Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

''(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), may implement this section at its discretion.''.

(b) FEDERAL AGENCY DEFINED.—Section 6402(f) of the Internal Revenue Code of 1986 (26 U.S.C. 6402(f)), is amended to read as follows:

''(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).''.

SEC. 5272. EXPANDING AUTHORITY TO COLLECT PAST-DUE SUPPORT.

(a) NOTIFICATION OF SECRETARY OF THE TREASURY.—Section 3720A(a) of title 31, United States Code, is amended to read as follows:

''(a) Any Federal agency that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt.''.

(b) IMPLEMENTATION OF SUPPORT COLLECTION BY SECRETARY OF THE TREASURY.—Section 464(a) of the Act of August 14, 1935 (42 U.S.C. 664(a)) is amended—

(1) in paragraph (1), by adding at the end the following: ''This subsection may be executed by the disbursing official of the Department of the Treasury.''; and

(2) in paragraph (2)(A), by adding at the end the following: ''This subsection may be executed by the disbursing official of the Department of the Treasury.''.

Subpart H—Disbursements

SEC. 5281. ELECTRONIC FUNDS TRANSFER.

Section 3332 of title 31, United States Code, popularly known as the Federal Financial Management Act of 1994, is amended—

(1) by redesignating subsection (e) as subsection (h), and inserting after subsection (d) the following new subsections:

''(e)(1) Notwithstanding subsections (a) through (d) of this section, sections 5120(a) and (d) of title 38, and any other provision of law, all Federal payments to a recipient who becomes eligible for that type of payments after 90 days after the date of the enactment of the Debt Collection Improvement Act of 1995 shall be made by electronic funds transfer.

''(2) The head of a Federal agency shall, with respect to Federal payments made or authorized by the agency, waive the application of paragraph (1) to a recipient of those payments upon receipt of written certification from the recipient that the recipient does not have an account with a financial institution or an authorized payment agent.

''(f)(1) Notwithstanding any other provision of law (including subsections (a) through (e) of this section and sections 5120(a) and (d) of title 38), except as provided in paragraph (2) all Federal payments made after January 1, 1999, shall be made by electronic funds transfer.

''(2)(A) The Secretary of the Treasury may waive application of this subsection to payments—

''(i) for individuals or classes of individuals for whom compliance imposes a hardship;

''(ii) for classifications or types of checks; or

''(iii) in other circumstances as may be necessary.

''(B) The Secretary of the Treasury shall make determinations under subparagraph (A) based on standards developed by the Secretary.

''(g) Each recipient of Federal payments required to be made by electronic funds transfer shall—

''(1) designate 1 or more financial institutions or other authorized agents to which such payments shall be made; and

''(2) provide to the Federal agency that makes or authorizes the payments information necessary for the recipient to receive electronic funds transfer payments through each institution or agent designated under paragraph (1).''; and

(2) by adding after subsection (h) (as so redesignated) the following new subsections:

''(i)(1) The Secretary of the Treasury may prescribe regulations that the Secretary considers necessary to carry out this section.

''(2) Regulations under this subsection shall ensure that individuals required under subsection (g) to have an account at a financial institution because of the application of subsection (f)(1)—

''(A) will have access to such an account at a reasonable cost; and

''(B) are given the same consumer protections with respect to the account as other account holders at the same financial institution.

''(j) For purposes of this section—

''(1) The term 'electronic funds transfer' means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fed Wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.

''(2) The term 'Federal agency' means—

''(A) an agency (as defined in section 101 of this title); and

''(B) a Government corporation (as defined in section 103 of title 5).

''(3) The term 'Federal payments' includes—

''(A) Federal wage, salary, and retirement payments;

''(B) vendor and expense reimbursement payments; and

''(C) benefit payments.

Such term shall not include any payment under the Internal Revenue Code of 1986.''

SEC. 5282. REQUIREMENT TO INCLUDE TAXPAYER IDENTIFYING NUMBER WITH PAYMENT VOUCHER.

Section 3325 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(d) The head of an executive agency or an officer or employee of an executive agency referred to in subsection (a)(1)(B), as applicable, shall include with each certified voucher submitted to a disbursing official pursuant to this section the taxpayer identifying number of each person to whom payment may be made under the voucher.''.

Subpart I—Miscellaneous

SEC. 5291. MISCELLANEOUS AMENDMENTS TO DEFINITIONS.

Section 3701 of title 31, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

''(1) 'administrative offset' means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.'';

(2) by amending subsection (b) to read as follows:

''(b)(1) In subchapter II of this chapter, the term 'claim' or 'debt' means any amount of funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation—

''(A) funds owed on account of loans made, insured, or guaranteed by the Government, including any deficiency or any difference between the price obtained by the Government in the sale of a property and the amount owed to the Government on a mortgage on the property,

''(B) expenditures of nonappropriated funds,

''(C) over-payments, including payments disallowed by audits performed by the Inspector General of the agency administering the program,

''(D) any amount the United States is authorized by statute to collect for the benefit of any person,

''(E) the unpaid share of any non-Federal partner in a program involving a Federal payment and a matching, or cost-sharing, payment by the non-Federal partner,

''(F) any fines or penalties assessed by an agency; and

''(G) other amounts of money or property owed to the Government.

''(2) For purposes of sections 3716 of this title, each of the terms 'claim' and 'debt' includes an amount of funds or property owed by a person to a State (including any past-due support being enforced by the State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.''; and

(3) by adding after subsection (f) (as added by section 5241 of this subtitle) the following new subsection:

''(g) In section 3716 of this title—

''(1) 'creditor agency' means any agency owed a claim that seeks to collect that claim through administrative offset; and

''(2) 'payment certifying agency' means any agency that has transmitted a voucher to a disbursing official for disbursement.''.

SEC. 5292. MONITORING AND REPORTING.

(a) GUIDELINES.—The Secretary of the Treasury, in consultation with concerned Federal agencies, may establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(b) REPORT.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code, as added by section 5243 of this subtitle.

(c) AGENCY REPORTS.—Section 3719 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: ''In consultation with the Comptroller General of the United States, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once each year a report summarizing the status of loans and accounts receivable that are managed by the head of the agency.''; and

(B) in paragraph (3), by striking ''Director'' and inserting ''Secretary''; and

(2) in subsection (b), by striking ''Director'' and inserting ''Secretary''.

(d) CONSOLIDATION OF REPORTS.—Notwithstanding any other provision of law, the Secretary of the Treasury may consolidate reports concerning debt collection otherwise required to be submitted by the Secretary into one annual report.

SEC. 5293. REVIEW OF STANDARDS AND POLICIES FOR COMPROMISE OR WRITE-DOWN OF DELINQUENT DEBTS.

The Director of the Office of Management and Budget shall—

(1) review the standards and policies of each Federal agency for compromising, writing-down, forgiving, or discharging indebtedness arising from programs of the agency;

(2) determine whether those standards and policies are consistent and protect the interests of the United States;

(3) in the case of any Federal agency standard or policy that the Secretary determines is not consistent or does not protect the interests of the United States, direct the head of the agency to make appropriate modifications to the standard or policy; and

(4) report annually to the Congress on—

(A) deficiencies in the standards and policies of Federal agencies for compromising, writing-down, forgiving, or discharging indebtedness; and

(B) progress made in improving those standards and policies.

PART II—JUSTICE DEBT MANAGEMENT

SEC. 5301. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) ELIMINATION OF LIMITATION ON FEES.—Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) REPEAL.—Sections 3 and 5 of the Act of October 28, 1986 (popularly known as the Federal Debt Recovery Act; Public Law 99–578, 100 Stat. 3305) are hereby repealed.

SEC. 5302. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28, United States Code, is amended—

(1) in the table of subchapters at the beginning of the chapter by adding at the end the following new item:

''E. Nonjudicial foreclosure 3401''; and

(2) by adding at the end of the chapter the following new subchapter:

''SUBCHAPTER E—NONJUDICIAL FORECLOSURE

''Sec.
''3401. Definitions.
''3402. Rules of construction.
''3403. Election of procedure.
''3404. Designation of foreclosure trustee.
''3405. Notice of foreclosure sale; statute of limitations.
''3406. Service of notice of foreclosure sale.
''3407. Cancellation of foreclosure sale.
''3408. Stay.
''3409. Conduct of sale; postponement.
''3410. Transfer of title and possession.
''3411. Record of foreclosure and sale.
''3412. Effect of sale.
''3413. Disposition of sale proceeds.
''3414. Deficiency judgment.

''§ 3401. Definitions

''As used in this subchapter—

''(1) 'agency' means—

''(A) an Executive department, as set forth in section 101 of title 5, United States Code;

''(B) an independent establishment, as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office);

''(C) a military department, as set forth in section 102 of title 5, United States Code; and

''(D) a wholly owned government corporation, as defined in section 9101(3) of title 31, United States Code;

''(2) 'agency head' means the head and any assistant head of an agency, and may upon the designation by the head of an agency include the chief official of any principal division of an agency or any other employee of an agency;

''(3) 'bona fide purchaser' means a purchaser for value in good faith and without notice of any adverse claim who acquires the seller's interest free of any adverse claim;

''(4) 'debt instrument' means a note, mortgage bond, guaranty, or other instrument creating a debt or other obligation, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying a debt instrument;

''(5) 'file' or 'filing' means docketing, indexing, recording, or registering, or any other requirement for perfecting a mortgage or a judgment;

''(6) 'foreclosure trustee' means an individual, partnership, association, or corporation, or any employee thereof, including a successor, appointed by the agency head to conduct a foreclosure sale pursuant to this subchapter;

''(7) 'mortgage' means a deed of trust, deed to secure debt, security agreement, or any other form of instrument under which any interest in real property, including leaseholds, life estates, reversionary interests, and any other estates under applicable law is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of any other obligation;

''(8) 'of record' means an interest recorded pursuant to Federal or State statutes that provide for official recording of deeds, mortgages, and judgments, and that establish the effect of such records as notice to creditors, purchasers, and other interested persons;

''(9) 'owner' means any person who has an ownership interest in property and includes heirs, devisees, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owner of record is deceased;

''(10) 'sale' means a sale conducted pursuant to this subchapter, unless the context requires otherwise; and

''(11) 'security property' means real property, or any interest in real property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law that secure a mortgage.

''§ 3402. Rules of construction

''(a) IN GENERAL.—If an agency head elects to proceed under this subchapter, this subchapter shall apply and the provisions of this subchapter shall govern in the event of a conflict with any other provision of Federal law or State law.

''(b) LIMITATION.—This subchapter shall not be construed to supersede or modify the operation of—

''(1) the lease-back/buy-back provisions under section 335 of the Consolidated Farm and Rural Development Act, or regulations promulgated thereunder; or

''(2) The Multifamily Mortgage Foreclosure Act of 1981.

''(c) EFFECT ON OTHER LAWS.—This subchapter shall not be construed to curtail or limit the rights of the United States or any of its agencies—

''(1) to foreclose a mortgage under any other provision of Federal law or State law; or

''(2) to enforce any right under Federal law or State law in lieu of or in addition to foreclosure, including any right to obtain a monetary judgment.

''(d) APPLICATION TO MORTGAGES.—The provisions of this subchapter may be used to foreclose any mortgage, whether executed prior or subsequent to the effective date of this subchapter.

''§ 3403. Election of procedure

''(a) SECURITY PROPERTY SUBJECT TO FORECLOSURE.—An agency head may foreclose a mortgage upon the breach of a covenant or condition in a debt instrument or mortgage for which acceleration or foreclosure is authorized. An agency head may not institute foreclosure proceedings on the mortgage under any other provision of law, or refer such mortgage for litigation, during the pendency of foreclosure proceedings pursuant to this subchapter.

''(b) EFFECT OF CANCELLATION OF SALE.—If a foreclosure sale is canceled pursuant to section 3407, the agency head may thereafter foreclose on the security property in any manner authorized by law.

''§ 3404. Designation of foreclosure trustee

''(a) IN GENERAL.—An agency head shall designate a foreclosure trustee who shall supersede any trustee designated in the mortgage. A foreclosure trustee designated under this section shall have a nonjudicial power of sale pursuant to this subchapter.

''(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

''(1) An agency head may designate as foreclosure trustee—

''(A) an officer or employee of the agency;

''(B) an individual who is a resident of the State in which the security property is located; or

''(C) a partnership, association, or corporation, if such entity is authorized to transact business under the laws of the State in which the security property is located.

''(2) The agency head is authorized to enter into personal services and other contracts not inconsistent with this subchapter.

''(c) METHOD OF DESIGNATION.—An agency head shall designate the foreclosure trustee in writing. The foreclosure trustee may be designated by name, title, or position. An agency head may designate one or more foreclosure trustees for the purpose of proceedings with multiple foreclosures or a class of foreclosures.

''(d) AVAILABILITY OF DESIGNATION.—An agency head may designate such foreclosure trustees as the agency head deems necessary to carry out the purposes of this subchapter.

''(e) MULTIPLE FORECLOSURE TRUSTEES AUTHORIZED.—An agency head may designate multiple foreclosure trustees for different tracts of a secured property.

''(f) REMOVAL OF FORECLOSURE TRUSTEES; SUCCESSOR FORECLOSURE TRUSTEES.—An agency head may, with or without cause or notice, remove a foreclosure trustee and designate a successor trustee as provided in this section. The foreclosure sale shall continue without prejudice notwithstanding the removal of the foreclosure trustee and designation of a successor foreclosure trustee. Nothing in this section shall be construed to prohibit a successor foreclosure trustee from postponing the foreclosure sale in accordance with this subchapter.

''§ 3405. Notice of foreclosure sale; statute of limitations

''(a) IN GENERAL.—

''(1) Not earlier than 21 days nor later than ten years after acceleration of a debt instrument or demand on a guaranty, the foreclosure trustee shall serve a notice of foreclosure sale in accordance with this subchapter.

''(2) For purposes of computing the time period under paragraph (1), there shall be excluded all periods during which there is in effect—

''(A) a judicially imposed stay of foreclosure; or

''(B) a stay imposed by section 362 of title 11, United States Code.

''(3) In the event of partial payment or written acknowledgement of the debt after acceleration of the debt instrument, the right to foreclose shall be deemed to accrue again at the time of each such payment or acknowledgement.

''(b) NOTICE OF FORECLOSURE SALE.—The notice of foreclosure sale shall include—

''(1) the name, title, and business address of the foreclosure trustee as of the date of the notice;

''(2) the names of the original parties to the debt instrument and the mortgage, and any assignees of the mortgagor of record;

''(3) the street address or location of the security property, and a generally accepted designation used to describe the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

''(4) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

''(5) the default or defaults upon which foreclosure is based, and the date of the acceleration of the debt instrument;

''(6) the date, time, and place of the foreclosure sale;

''(7) a statement that the foreclosure is being conducted in accordance with this subchapter;

''(8) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

''(9) the terms and conditions of sale, including the method and time of payment of the foreclosure purchase price.

''§ 3406. Service of notice of foreclosure sale

''(a) RECORD NOTICE.—At least 21 days prior to the date of the foreclosure sale, the notice of foreclosure sale required by section 3405 shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State where the security property is located or, if none, in the manner authorized by section 3201 of this chapter.

''(b) NOTICE BY MAIL.—

''(1) At least 21 days prior to the date of the foreclosure sale, the notice set forth in section 3405 shall be sent by registered or certified mail, return receipt requested—

''(A) to the current owner of record of the security property as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a);

''(B) to all debtors, including the mortgagor, assignees of the mortgagor and guarantors of the debt instrument;

''(C) to all persons having liens, interests or encumbrances of record upon the security property, as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a); and

''(D) to any occupants of the security property.

If the names of the occupants of the security property are not known to the agency, or the security property has more than one dwelling unit, the notice shall be posted at the security property.

''(2) The notice shall be sent to the debtor at the address, if any, set forth in the debt instrument or mortgage as the place to which notice is to be sent, and if different, to the debtor's last known address as shown in the mortgage record of the agency. The notice shall be sent to any person other than the debtor to that person's address of record or, if there is no address of record, to any address at which the agency in good faith believes the notice is likely to come to that person's attention.

''(3) Notice by mail pursuant to this subsection shall be effective upon mailing.

''(c) NOTICE BY PUBLICATION.—The notice of the foreclosure sale shall be published at least once a week for each of three successive weeks prior to the sale in at least one newspaper of general circulation in any county or counties in which the security property is located. If there is no newspaper published at least weekly that has a general circulation in at least one county in which the security property is located, copies of the notice of foreclosure sale shall instead be posted at least 21 days prior to the sale at the courthouse of any county or counties in which the property is located and the place where the sale is to be held.

''§ 3407. Cancellation of foreclosure sale

''(a) IN GENERAL.—At any time prior to the foreclosure sale, the foreclosure trustee shall cancel the sale—

''(1) if the debtor or the holder of any subordinate interest in the security property tenders the performance due under the debt instrument and mortgage, including any amounts due because of the exercise of the right to accelerate, and the expenses of proceeding to foreclosure incurred to the time of tender; or

''(2) if the security property is a dwelling of four units or fewer, and the debtor—

''(A) pays or tenders all sums which would have been due at the time of tender in the absence of any acceleration;

''(B) performs any other obligation which would have been required in the absence of any acceleration; and

''(C) pays or tenders all costs of foreclosure incurred for which payment from the proceeds of the sale would be allowed; or

''(3) for any reason approved by the agency head.

''(b) LIMITATION.—The debtor may not, without the approval of the agency head, cure the default under subsection (a)(2) if, within the preceding 12 months, the debtor has cured a default after being served with a notice of foreclosure sale pursuant to this subchapter.

''(c) NOTICE OF CANCELLATION.—The foreclosure trustee shall file a notice of the cancellation in the same place and manner provided for the filing of the notice of foreclosure sale under section 3406(a).

''§ 3408. Stay

''If, prior to the time of sale, foreclosure proceedings under this subchapter are stayed in any manner, including the filing of bankruptcy, no person may thereafter cure the default under the provisions of section 3407(a)(2). If the default is not cured at the time a stay is terminated, the foreclosure trustee shall proceed to sell the security property as provided in this subchapter.

''§ 3409. Conduct of sale; postponement

''(a) SALE PROCEDURES.—Foreclosure sale pursuant to this subchapter shall be at public auction and shall be scheduled to begin at a time between the hours of 9:00 a.m. and 4:00 p.m. local time. The foreclosure sale shall be held at the location specified in the notice of foreclosure sale, which shall be a location where real estate foreclosure auctions are customarily held in the county or one of the counties in which the property to be sold is located or at a courthouse therein, or upon the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated. The foreclosure trustee may designate the order in which multiple tracts of security property are sold.

''(b) BIDDING REQUIREMENTS.—Written one-price sealed bids shall be accepted by the foreclosure trustee, if submitted by the agency head or other persons for entry by announcement by the foreclosure trustee at the sale. The sealed bids shall be submitted in accordance with the terms set forth in the notice of foreclosure sale. The agency head or any other person may bid at the foreclosure sale, even if the agency head or other person previously submitted a written one-price bid. The agency head may bid a credit against the debt due without the tender or payment of cash. The foreclosure trustee may serve as auctioneer, or may employ an auctioneer who may be paid from the sale proceeds. If an auctioneer is employed, the foreclosure trustee is not required to attend the sale. The foreclosure trustee or an auctioneer may bid as directed by the agency head.

''(c) POSTPONEMENT OF SALE.—The foreclosure trustee shall have discretion, prior to or at the time of sale, to postpone the foreclosure sale. The foreclosure trustee may postpone a sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale at the time and place originally scheduled for the foreclosure sale. The foreclosure trustee may instead postpone the foreclosure sale for not fewer than 9 nor more than 31 days, by serving notice that the foreclosure sale has been postponed to a specified date, and the notice may include any revisions the foreclosure trustee deems appropriate. The notice shall be served by publication, mailing, and posting in accordance with section 3406(b) and (c), except that publication may be made on any of

three separate days prior to the new date of the foreclosure sale, and mailing may be made at any time at least 7 days prior to the new date of the foreclosure sale.

''(d) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—The foreclosure trustee may require a bidder to make a cash deposit before the bid is accepted. The amount or percentage of the cash deposit shall be stated by the foreclosure trustee in the notice of foreclosure sale. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale shall forfeit the cash deposit or, at the election of the foreclosure trustee, shall be liable to the agency on a subsequent sale of the property for all net losses incurred by the agency as a result of such failure.

''(e) EFFECT OF SALE.—Any foreclosure sale held in accordance with this subchapter shall be conclusively presumed to have been conducted in a legal, fair, and commercially reasonable manner. The sale price shall be conclusively presumed to constitute the reasonably equivalent value of the security property.

''§ 3410. Transfer of title and possession

''(a) DEED.—After receipt of the purchase price in accordance with the terms of the sale as provided in the notice of foreclosure sale, the foreclosure trustee shall execute and deliver to the purchaser a deed conveying the security property to the purchaser that grants and conveys title to the security property without warranty or covenants to the purchaser. The execution of the foreclosure trustee's deed shall have the effect of conveying all of the right, title, and interest in the security property covered by the mortgage. Notwithstanding any other law to the contrary, the foreclosure trustee's deed shall be a conveyance of the security property and not a quitclaim. No judicial proceeding shall be required ancillary or supplementary to the procedures provided in this subchapter to establish the validity of the conveyance.

''(b) DEATH OF PURCHASER PRIOR TO CONSUMMATION OF SALE.—If a purchaser dies before execution and delivery of the deed conveying the security property to the purchaser, the foreclosure trustee shall execute and deliver the deed to the representative of the purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

''(c) PURCHASER CONSIDERED BONA FIDE PURCHASER WITHOUT NOTICE.—The purchaser of property under this subchapter shall be presumed to be a bona fide purchaser without notice of defects, if any, in the title conveyed to the purchaser.

''(d) POSSESSION BY PURCHASER; CONTINUING INTERESTS.—A purchaser at a foreclosure sale conducted pursuant to this subchapter shall be entitled to possession upon passage of title to the security property, subject to any interest or interests senior to that of the mortgage. The right to possession of any person without an interest senior to the mortgage who is in possession of the property shall terminate immediately upon the passage of title to the security property, and the person shall vacate the security property immediately. The purchaser shall be entitled to take any steps available under Federal law or State law to obtain possession.

''§ 3411. Record of foreclosure and sale

''(a) RECITAL REQUIREMENTS.—The foreclosure trustee shall recite in the deed to the purchaser, or in an addendum to the foreclosure trustee's deed, or shall prepare an affidavit stating—

''(1) the date, time, and place of sale;

''(2) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

''(3) the persons served with the notice of foreclosure sale;

''(4) the date and place of filing of the notice of foreclosure sale under section 3406(a);

''(5) that the foreclosure was conducted in accordance with the provisions of this subchapter; and

''(6) the sale amount.

''(b) EFFECT OF RECITALS.—The recitals set forth in subsection (a) shall be prima facie evidence of the truth of such recitals. Compliance with the requirements of subsection (a) shall create a conclusive presumption of the validity of the sale in favor of bona fide purchasers and encumbrancers for value without notice.

''(c) DEED TO BE ACCEPTED FOR FILING.—The register of deeds or other appropriate official of the county or counties where real estate deeds are regularly filed shall accept for filing and shall file the foreclosure trustee's deed and affidavit, if any, and any other instruments submitted for filing in relation to the foreclosure of the security property under this subchapter.

''§ 3412. Effect of sale

''A sale conducted under this subchapter to a bona fide purchaser shall bar all claims upon the security property by—

''(1) any person to whom the notice of foreclosure sale was mailed as provided in this subchapter who claims an interest in the property subordinate to that of the mortgage, and the heir, devisee, executor, administrator, successor, or assignee claiming under any such person;

''(2) any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the sale;

''(3) any person so claiming, whose assignment, mortgage, or other conveyance was not filed in the proper place for filing, or whose judgment or decree was not filed in the proper place for filing, prior to the date of filing of the notice of foreclosure sale as required by section 3406(a), and the heir, devisee, executor, administrator, successor, or assignee of such a person; or

''(4) any other person claiming under a statutory lien or encumbrance not required to be filed and attaching to the title or interest of any person designated in any of the foregoing subsections of this section.

''§ 3413. Disposition of sale proceeds

''(a) DISTRIBUTION OF SALE PROCEEDS.—The foreclosure trustee shall distribute the proceeds of the foreclosure sale in the following order:

''(1)(A) First, to pay the commission of the foreclosure trustee, other than an agency employee, the greater of—

''(i) the sum of—

''(I) 3 percent of the first $1,000 collected, plus

''(II) 1.5 percent on the excess of any sum collected over $1,000; or

''(ii) $250.

''(B) The amounts described in subparagraph (A)(i) shall be computed on the gross proceeds of all security property sold at a single sale.

''(2) Thereafter, to pay the expense of any auctioneer employed by the foreclosure trustee, if any, except that the commission payable to the foreclosure trustee pursuant to paragraph (1) shall be reduced by the amount paid to an auctioneer, unless the agency head determines that such reduction would adversely affect the ability of the agency head to retain qualified foreclosure trustees or auctioneers.

''(3) Thereafter, to pay for the costs of foreclosure, including—

''(A) reasonable and necessary advertising costs and postage incurred in giving notice pursuant to section 3406;

''(B) mileage for posting notices and for the foreclosure trustee's or auctioneer's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

''(C) reasonable and necessary costs actually incurred in connection with any search of title and lien records; and

''(D) necessary costs incurred by the foreclosure trustee to file documents.

''(4) Thereafter, to pay valid real property tax liens or assessments, if required by the notice of foreclosure sale.

''(5) Thereafter, to pay any liens senior to the mortgage, if required by the notice of foreclosure sale.

''(6) Thereafter, to pay service charges and advancements for taxes, assessments, and property insurance premiums.

''(7) Thereafter, to pay late charges and other administrative costs and the principal and interest balances secured by the mortgage, including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the debt instrument or mortgage and interest thereon if provided for in the debt instrument or mortgage, pursuant to the agency's procedure.

''(b) INSUFFICIENT PROCEEDS.—In the event there are no proceeds of sale or the proceeds are insufficient to pay the costs and expenses set forth in subsection (a), the agency head shall pay such costs and expenses as authorized by applicable law.

''(c) SURPLUS MONIES.—

''(1) After making the payments required by subsection (a), the foreclosure trustee shall—

''(A) distribute any surplus to pay liens in the order of priority under Federal law or the law of the State where the security property is located; and

''(B) pay to the person who was the owner of record on the date the notice of foreclosure sale was filed the balance, if any, after any payments made pursuant to paragraph (1).

''(2) If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the distribution of the surplus, that portion of the sale proceeds may be deposited by the foreclosure trustee with an appropriate official authorized under law to receive funds under such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure trustee files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure trustee's necessary costs in taking or defending such action shall be deducted first from the disputed funds.

''§ 3414. Deficiency judgment

''(a) IN GENERAL.—If after deducting the disbursements described in section 3413, the price at which the security property is sold at a foreclosure sale is insufficient to pay the unpaid balance of the debt secured by the security property, counsel for the United States may commence an action or actions against any or all debtors to recover the deficiency, unless specifically prohibited by the mortgage. The United States is also entitled to recover any amount authorized by section 3011 and costs of the action.

''(b) LIMITATION.—Any action commenced to recover the deficiency shall be brought within 6 years of the last sale of security property.

''(c) CREDITS.—The amount payable by a private mortgage guaranty insurer shall be

credited to the account of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.''.

TITLE VI—COMMITTEE ON INTERNATIONAL RELATIONS

Subtitle A—Recovery Of Costs Of Certain Health Care Services

SEC. 6001. RECOVERY OF COSTS OF HEALTH CARE SERVICES FOR PERSONNEL OF THE FOREIGN SERVICE OF THE UNITED STATES AND OTHER ELIGIBLE INDIVIDUALS.

(a) AUTHORITIES.—Section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084) is amended—

(1) in subsection (a) by—

(A) striking ''and'' before ''members of the families of such members and employees''; and

(B) by inserting immediately before the period '', and for care provided abroad) such other persons as are designated by the Secretary of State, except that such persons shall be considered persons other than covered beneficiaries for purposes of subsections (g) and (h)'';

(2) in subsection (d) by inserting '', subject to the provisions of subsections (g) and (h)'' after ''treatment''; and

(3) by adding the following new subsections:

''(g)(1) In the case of a person who is a covered beneficiary, the Secretary of State is authorized to collect from a third-party payer the reasonable costs incurred by the Department of State on behalf of such person for health care services to the same extent that the covered beneficiary would be eligible to receive reimbursement or indemnification from the third-party payer for such costs.

''(2) If the insurance policy, plan, contract, or similar agreement of that third-party payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the Secretary of State may collect from the third-party payer only the reasonable costs of the care provided less the deductible or copayment amount.

''(3) A covered beneficiary shall not be required to pay any deductible or copayment for health care services under this subsection.

''(4) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for care in the following circumstances shall operate to prevent collection by the Secretary of State under paragraph (1)—

''(A) care provided directly or indirectly by a governmental entity;

''(B) care provided to an individual who has not paid a required deductible or copayment; or

''(C) care provided by a provider with which the third-party payer has no participation agreement.

''(5) No law of any State, or of any political subdivision of a State, and no provision of any contract or agreement shall operate to prevent or hinder recovery or collection by the United States under this section.

''(6) As to the authority provided in paragraph (1) of this subsection—

''(A) the United States shall be subrogated to any right or claim that the covered beneficiary may have against a third-party payer;

''(B) the United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this subsection; and

''(C) the Secretary may compromise, settle, or waive a claim of the United States under this subsection.

''(7) The Secretary shall prescribe regulations for the administration of this subsection and subsection (h). Such regulations shall provide for computation of the reasonable cost of health care services.

''(8) Regulations prescribed under this subsection shall provide that medical records of a covered beneficiary receiving health care under this subsection shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought for the sole purpose of permitting the third party to verify—

''(A) that the care or services for which recovery or collection is sought were furnished to the covered beneficiary; and

''(B) that the provisions of such care or services to the covered beneficiary meets criteria generally applicable under the health plan contract involved, except that this paragraph shall be subject to the provisions of paragraphs (2) and (4).

''(9) Amounts collected under this subsection or under subsection (h) from a third party payer or from any other payer shall be deposited in the Treasury as a miscellaneous offsetting receipt.

''(10) For purposes of this section—

''(A) the term 'covered beneficiary' means an individual eligible to receive health care under this section whose health care costs are to be paid by a third-party payer under a contractual agreement with such payer;

''(B) the term 'services', as used in 'health care services' includes products; and

''(C) the term 'third-party payer' means an entity that provides a fee-for-service insurance policy, contract, or similar agreement through the Federal Employees Health Benefit program, under which the expenses of health care services for individuals are paid.

''(h) In the case of a person, other than a covered beneficiary, who receives health care services pursuant to this section, the Secretary of State is authorized to collect from such person the reasonable costs of health care services incurred by the Department of State on behalf of such person. The United States shall have the same rights against persons subject to the provisions of this subsection as against third-party payers covered by subsection (g).''.

(b) EFFECTIVE DATE.—The authorities of this section shall be effective beginning on the date of the enactment of this Act.

Subtitle B—Enactment Into Law of Division A of H.R. 1561

SEC. 6101. ENACTMENT INTO LAW OF DIVISION A OF H.R. 1561.

Division A of H.R. 1561, as passed the House of Representatives on June 8, 1995 (relating to consolidation of foreign affairs agencies), is hereby enacted into law.

Subtitle C—Cuban Liberty and Democratic Solidarity (LIBER- TAD) Act of 1995

SEC. 6201. SHORT TITLE.

This subtitle may be cited as the ''Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995''.

SEC. 6202. FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of at least 60 percent in the last 5 years as a result of—

(A) the end of its subsidization by the former Soviet Union of between 5 billion and 6 billion dollars annually;

(B) 36 years of Communist tyranny and economic mismanagement by the Castro government;

(C) the extreme decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the stated policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba on strictly commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of this economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba.

(3) The Castro regime has made it abundantly clear that it will not engage in any substantive political reforms that would lead to democracy, a market economy, or an economic recovery.

(4) The repression of the Cuban people, including a ban on free and fair democratic elections, and continuing violations of fundamental human rights have isolated the Cuban regime as the only completely nondemocratic government in the Western Hemisphere.

(5) As long as free elections are not held in Cuba, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(6) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(7) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the people of Cuba living under tyranny.

(8) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in sanctioning the totalitarian Castro regime.

(9) The United States has shown a deep commitment, and considers it a moral obligation, to promote and protect human rights and fundamental freedoms as expressed in the Charter of the United Nations and in the Universal Declaration of Human Rights.

(10) The Congress has historically and consistently manifested its solidarity and the solidarity of the American people with the democratic aspirations of the Cuban people.

(11) The Cuban Democracy Act of 1992 calls upon the President to encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(12) The 1992 FREEDOM Support Act requires that the President, in providing economic assistance to Russia and the emerging Eurasian democracies, take into account the extent to which they are acting to ''terminate support for the communist regime in Cuba, including removal of troops, closing military facilities, and ceasing trade subsidies and economic, nuclear, and other assistance''.

(13) The Cuban Government engages in the illegal international narcotics trade and harbors fugitives from justice in the United States.

(14) The Castro government threatens international peace and security by engaging in acts of armed subversion and terrorism such as the training and supplying of groups dedicated to international violence.

(15) The Castro government has utilized from its inception and continues to utilize torture in various forms (including by psychiatry), as well as execution, exile, confiscation, political imprisonment, and other forms of terror and repression, as means of retaining power.

(16) Fidel Castro has defined democratic pluralism as ''pluralistic garbage'' and continues to make clear that he has no intention of tolerating the democratization of Cuban society.

(17) The Castro government holds innocent Cubans hostage in Cuba by no fault of the hostages themselves solely because relatives have escaped the country.

(18) Although a signatory state to the 1928 Inter-American Convention on Asylum and the International Covenant on Civil and Political Rights (which protects the right to leave one's own country), Cuba nevertheless surrounds embassies in its capital by armed forces to thwart the right of its citizens to seek asylum and systematically denies that right to the Cuban people, punishing them by imprisonment for seeking to leave the country and killing them for attempting to do so (as demonstrated in the case of the confirmed murder of over 40 men, women, and children who were seeking to leave Cuba on July 13, 1994).

(19) The Castro government continues to utilize blackmail, such as the immigration crisis with which it threatened the United States in the summer of 1994, and other unacceptable and illegal forms of conduct to influence the actions of sovereign states in the Western Hemisphere in violation of the Charter of the Organization of American States and other international agreements and international law.

(20) The United Nations Commission on Human Rights has repeatedly reported on the unacceptable human rights situation in Cuba and has taken the extraordinary step of appointing a Special Rapporteur.

(21) The Cuban Government has consistently refused access to the Special Rapporteur and formally expressed its decision not to ''implement so much as one comma'' of the United Nations Resolutions appointing the Rapporteur.

(22) The United Nations General Assembly passed Resolution 1992/70 on December 4, 1992, Resolution 1993/48/142 on December 20, 1993, and Resolution 1994/49/544 on October 19, 1994, referencing the Special Rapporteur's reports to the United Nations and condemning ''violations of human rights and fundamental freedoms'' in Cuba.

(23) Article 39 of Chapter VII of the United Nations Charter provides that the United Nations Security Council ''shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken . . ., to maintain or restore international peace and security.''.

(24) The United Nations has determined that massive and systematic violations of human rights may constitute a ''threat to peace'' under Article 39 and has imposed sanctions due to such violations of human rights in the cases of Rhodesia, South Africa, Iraq, and the former Yugoslavia.

(25) In the case of Haiti, a neighbor of Cuba not as close to the United States as Cuba, the United States led an effort to obtain and did obtain a United Nations Security Council embargo and blockade against that country due to the existence of a military dictatorship in power less than 3 years.

(26) United Nations Security Council Resolution 940 of July 31, 1994, subsequently authorized the use of ''all necessary means'' to restore the ''democratically elected government of Haiti'', and the democratically elected government of Haiti was restored to power on October 15, 1994.

(27) The Cuban people deserve to be assisted in a decisive manner to end the tyranny that has oppressed them for 36 years and the continued failure to do so constitutes ethically improper conduct by the international community.

(28) For the past 36 years, the Cuban Government has posed and continues to pose a national security threat to the United States.

SEC. 6203. PURPOSES.

The purposes of this subtitle are as follows:

(1) To assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democracies that are flourishing in the Western Hemisphere.

(2) To seek international sanctions against the Castro government in Cuba.

(3) To encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers.

(4) To develop a plan for furnishing assistance to a transition government and, subsequently, to a democratically elected government when such governments meet the eligibility requirements of this subtitle.

(5) To protect property rights abroad of United States nationals.

(6) To provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism, theft of property from United States nationals, and domestic repression from which refugees flee to United States shores.

SEC. 6204. DEFINITIONS.

As used in this subtitle, the following terms have the following meanings:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on International Relations, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations, the Committee on Finance, and the Committee on Appropriations of the Senate.

(2) COMMERCIAL ACTIVITY.—The term ''commercial activity'' has the meaning given that term in section 1603(d) of title 28, United States Code.

(3) CONFISCATED.—As used in parts 1 and 3, the term ''confiscated'' refers to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure by the Cuban Government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(4) CUBAN GOVERNMENT.—(A) The term ''Cuban Government'' includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term ''agency or instrumentality of the Government of Cuba'' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with ''Cuba'' substituted for ''a foreign state'' each place it appears in such section.

(5) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term ''democratically elected government in Cuba'' means a government determined by the President to have met the requirements of section 206.

(6) ECONOMIC EMBARGO OF CUBA.—The term ''economic embargo of Cuba'' refers to the economic embargo imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act (50 U.S.C. 1701 and following), and the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following), as modified by the Cuban Democracy Act of 1992 (22 U.S.C. 6001 and following).

(7) FOREIGN NATIONAL.—The term ''foreign national'' means—

(A) an alien; or

(B) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United States, or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

(8) KNOWINGLY.—The term ''knowingly'' means with knowledge or having reason to know.

(9) PROPERTY.—(A) The term ''property'' means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal, or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of part 3 of this subtitle, the term ''property'' shall not include real property used for residential purposes unless, as of the date of the enactment of this Act—

(i) the claim to the property is owned by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949; or

(ii) the property is occupied by a member or official of the Cuban Government or the ruling political party in Cuba.

(10) TRAFFICS.—(A) As used in part 3, a person or entity ''traffics'' in property if that person or entity knowingly and intentionally—

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clauses (i) and (ii)) by another person, or otherwise engages in trafficking (as described in clauses (i) and (ii)) through another person,

without the authorization of the United States national who holds a claim to the property.

(B) The term ''traffics'' does not include—

(i) the delivery of international telecommunication signals to Cuba that are authorized by section 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(e)); or

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national.

(11) TRANSITION GOVERNMENT IN CUBA.—The term ''transition government in Cuba'' means a government determined by the President to have met the requirements of section 6235.

(12) UNITED STATES NATIONAL.—The term ''United States national'' means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, the

Commonwealth of Puerto Rico, or any other territory or possession of the United States, and which has its principal place of business in the United States.

PART 1—SEEKING SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 6211. STATEMENT OF POLICY.

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek, within the Security Council, a mandatory international embargo against the totalitarian Cuban Government pursuant to chapter VII of the Charter of the United Nations, which is similar to measures taken by United States representatives with respect to Haiti; and

(3) any resumption or commencement of efforts by any state to make operational the nuclear facility at Cienfuegos, Cuba, will have a detrimental impact on United States assistance to and relations with that state.

SEC. 6212. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY.—(1) The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992 that states the President should encourage foreign countries to restrict trade and credit relations with Cuba.

(2) The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b) of that Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State shall ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials, are communicating the reasons for the United States economic embargo of Cuba, and are urging foreign governments to cooperate more effectively with the embargo.

(c) EXISTING REGULATIONS.—The President should instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) TRADING WITH THE ENEMY ACT.—

(1) CIVIL PENALTIES.—Subsection (b) of section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16(b)) is amended to read as follows:

''(b)(1) A civil penalty of not to exceed $50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.

''(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

''(3) The penalties provided under this subsection may not be imposed for—

''(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

''(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

''(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

''(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.''.

(2) FORFEITURE OF PROPERTY USED IN VIOLATION.—Section 16 of the Trading With the Enemy Act is further amended by striking subsection (c).

(3) CLERICAL AMENDMENT.—Section 16 of the Trading With the Enemy Act is further amended by inserting ''SEC. 16.'' before ''(a)''.

(e) COVERAGE OF DEBT-FOR-EQUITY SWAPS BY ECONOMIC EMBARGO OF CUBA.—Section 1704(b)(2) of the Cuban Democracy Act of 1992 (22 U.S.C. 6003(b)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

''(B) includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba (including the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba) or of a Cuban national; and''; and

(4) by adding at the end the following flush sentence:

''As used in this paragraph, the term 'agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with 'Cuba' substituted for 'a foreign state' each place it appears in such section.''.

SEC. 6213. PROHIBITION AGAINST INDIRECT FINANCING OF THE CASTRO DICTATORSHIP.

(a) PROHIBITION.—Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, permanent resident alien, or United States agency, to a foreign national, United States national, or permanent resident alien, in order to finance transactions involving any confiscated property the claim to which is owned by a United States national as of the date of the enactment of this Act.

(b) TERMINATION OF PROHIBITION.—The prohibition of subsection (a) shall cease to apply on the date on which the economic embargo of Cuba terminates under section 6235.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by the same penalties as are applicable to violations of the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) DEFINITIONS.—As used in this section—

(1) the term ''permanent resident alien'' means an alien admitted for permanent residence into the United States; and

(2) the term ''United States agency'' has the meaning given the term ''agency'' in section 551(1) of title 5, United States Code.

SEC. 6214. UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—(1) Until such time as the President determines that a transition government in Cuba is in power, the Secretary of the Treasury should instruct the United States executive director to each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution.

(2) Once a transition government in Cuba is in power, the President is encouraged to take steps to support the processing of Cuba's application for membership in any financial institution subject to the membership taking effect at such time as the President deems most likely to facilitate the transition to a democratically elected government in Cuba.

(b) REDUCTION IN UNITED STATES PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS.—If any international financial institution approves a loan or other assistance to the Cuban Government over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to that institution an amount equal to the amount of the loan or other assistance to the Cuban Government, with respect to each of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) DEFINITION.—For purposes of this section, the term ''international financial institution'' means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

SEC. 6215. UNITED STATES OPPOSITION TO ENDING THE SUSPENSION OF THE GOVERNMENT OF CUBA FROM THE ORGANIZATION OF AMERICAN STATES.

The President should instruct the United States Permanent Representative to the Organization of American States to use the voice and vote of the United States to oppose ending the suspension of the Government of Cuba from the Organization until the President determines under section 6233(c)(3) that a democratically elected government in Cuba is in power.

SEC. 6216. ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION FOR THE CUBAN GOVERNMENT.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress towards the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) CRITERIA FOR ASSISTANCE.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(11)) is amended by striking ''of military facilities'' and inserting ''military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos''.

(c) INELIGIBILITY FOR ASSISTANCE.—(1) Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

(A) by striking ''or'' at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

''(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within that 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Cuban Government; or''.

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)), is amended by adding at the end the following:

''(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil

and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

''(A) exports to the Cuban Government on terms that involve a grant, concessional price, guaranty, insurance, or subsidy;

''(B) imports from the Cuban Government at preferential tariff rates;

''(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Cuban Government is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

''(D) the exchange, reduction, or forgiveness of Cuban debt in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

''(4) CUBAN GOVERNMENT.—(A) The term 'Cuban Government' includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

''(B) For purposes of subparagraph (A), the term 'agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with 'Cuba' substituted for 'a foreign state' each place it appears in such section.''.

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to approximately $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

''(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of the enactment of this subsection, for an independent state of the former Soviet Union under this chapter an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

''(2)(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

''(B) At the time of a certification made with respect to Russia pursuant to subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

''(C) The report required by subparagraph (B) may be submitted in classified form.

''(D) For purposes of this paragraph, the term 'appropriate congressional committees' includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

''(3) The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

''(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

''(B) democratic political reform and rule of law activities;

''(C) technical assistance for safety upgrades of civilian nuclear power plants;

''(D) the creation of private sector and nongovernmental organizations that are independent of government control;

''(E) the development of a free market economic system; and

''(F) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160).''.

SEC. 6217. TELEVISION BROADCASTING TO CUBA.

(a) CONVERSION TO UHF.—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) PERIODIC REPORTS.—Not later than 45 days after the date of the enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director of the United States Information Agency shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 6233(c)(3), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are repealed.

SEC. 6218. REPORTS ON ASSISTANCE AND COMMERCE RECEIVED BY CUBA FROM OTHER FOREIGN COUNTRIES.

(a) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and every year thereafter, the President shall submit a report to the appropriate congressional committees on assistance and commerce received by Cuba from other foreign countries during the preceding 12-month period.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall, for the period covered by the report, contain the following, to the extent such information is known:

(1) A description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance.

(2) A description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade.

(3) A description of the joint ventures completed, or under consideration, by foreign nationals involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved.

(4) A determination whether or not any of the facilities described in paragraph (3) is the subject of a claim by a United States national.

(5) A determination of the amount of Cuban debt owed to each foreign country, including—

(A) the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals; and

(B) the amount of debt owed to the foreign country that has been exchanged, reduced, or forgiven in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

(6) A description of the steps taken to ensure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals do not enter the United States market, either directly or through third countries or parties.

(7) An identification of countries that purchase, or have purchased, arms or military supplies from the Cuban Government or that otherwise have entered into agreements with the Cuban Government that have a military application, including—

(A) a description of the military supplies, equipment, or other materiel sold, bartered, or exchanged between the Cuban Government and such countries;

(B) a listing of the goods, services, credits, or other consideration received by the Cuban Government in exchange for military supplies, equipment, or materiel; and

(C) the terms or conditions of any such agreement.

SEC. 6219. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC AND HUMAN RIGHTS GROUPS AND INTERNATIONAL OBSERVERS.

(a) AUTHORIZATION.—Notwithstanding any other provision of law, except for section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba, including the following:

(1) Published and informational matter, such as books, videos, and cassettes, on transitions to democracy, human rights, and market economies, to be made available to independent democratic groups in Cuba.

(2) Humanitarian assistance to victims of political repression, and their families.

(3) Support for democratic and human rights groups in Cuba.

(4) Support for visits and permanent deployment of independent international human rights monitors in Cuba.

(b) OAS EMERGENCY FUND.—(1) The President shall take the necessary steps to encourage the Organization of American States to create a special emergency fund for the explicit purpose of deploying human rights observers, election support, and election observation in Cuba.

(2) The President should instruct the United States Permanent Representative to the Organization of American States to encourage other member states of the Organization to join in calling for the Cuban Government to allow the immediate deployment of independent human rights monitors of the Organization throughout Cuba and on-site visits to Cuba by the Inter-American Commission on Human Rights.

(3) Notwithstanding section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) or any other provision of law limiting the United States proportionate share of assistance to Cuba by any international organization, the President should provide not less than $5,000,000 of the voluntary contributions of the United States to the Organization of American States as of the date of the enactment of this Act solely for the purposes of the special fund referred to in paragraph (1).

SEC. 6220. WITHHOLDING OF FOREIGN ASSISTANCE FROM COUNTRIES SUPPORTING NUCLEAR PLANT IN CUBA.

(a) FINDINGS.—The Congress makes the following findings:

(1) President Clinton stated in April 1993 that ''the United States opposes the construction of the Juragua nuclear power plant

because of our concerns about Cuba's ability to ensure the safe operation of the facility and because of Cuba's refusal to sign the Nuclear Non-Proliferation Treaty or ratify the Treaty of Tlatelolco.''.

(2) Cuba has not signed the Treaty on the Non-Proliferation of Nuclear Weapons or ratified the Treaty of Tlatelolco, the latter of which establishes Latin America and the Caribbean as a nuclear weapons-free zone.

(3) The State Department, the Nuclear Regulatory Commission, and the Department of Energy have expressed concerns about the construction and operation of Cuba's nuclear reactors.

(4) In a September 1992 report to Congress, the General Accounting Office outlined concerns among nuclear energy experts about deficiencies in the nuclear plant project in Juragua, near Cienfuegos, Cuba, including—

(A) a lack in Cuba of a nuclear regulatory structure;

(B) the absence in Cuba of an adequate infrastructure to ensure the plant's safe operation and requisite maintenance;

(C) the inadequacy of training of plant operators;

(D) reports by a former technician from Cuba who, by examining with x-rays weld sites believed to be part of the auxiliary plumbing system for the plant, found that 10 to 15 percent of those sites were defective;

(E) since September 5, 1992, when construction on the plant was halted, the prolonged exposure to the elements, including corrosive salt water vapor, of the primary reactor components; and

(F) the possible inadequacy of the upper portion of the reactors' dome retention capability to withstand only 7 pounds of pressure per square inch, given that normal atmospheric pressure is 32 pounds per square inch and United States reactors are designed to accommodate pressures of 50 pounds per square inch.

(5) The United States Geological Survey claims that it had difficulty determining answers to specific questions regarding earthquake activity in the area near Cienfuegos because the Cuban Government was not forthcoming with information.

(6) The Geological Survey has indicated that the Caribbean plate, a geological formation near the south coast of Cuba, may pose seismic risks to Cuba and the site of the power plant, and may produce large to moderate earthquakes.

(7) On May 25, 1992, the Caribbean plate produced an earthquake numbering 7.0 on the Richter scale.

(8) According to a study by the National Oceanic and Atmospheric Administration, summer winds could carry radioactive pollutants from a nuclear accident at the power plant throughout all of Florida and parts of the States on the gulf coast as far as Texas, and northern winds could carry the pollutants as far northeast as Virginia and Washington, D.C.

(9) The Cuban Government, under dictator Fidel Castro, in 1962 advocated the Soviets' launching of nuclear missiles to the United States, which represented a direct and dangerous provocation of the United States and brought the world to the brink of a nuclear conflict.

(10) Fidel Castro over the years has consistently issued threats against the United States Government, most recently that he would unleash another perilous mass migration from Cuba upon the enactment of this Act.

(11) Despite the various concerns about the plant's safety and operational problems, a feasibility study is being conducted that would establish a support group to include Russia, Cuba, and third countries with the objective of completing and operating the plant.

(b) WITHHOLDING OF FOREIGN ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President shall withhold from assistance allocated, on or after the date of the enactment of this Act, for any country an amount equal to the sum of assistance and credits, if any, provided on or after such date of enactment by that country or any entity in that country in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

(2) EXCEPTIONS.—The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform and rule of law activities;

(C) the creation of private sector and nongovernmental organizations that are independent of government control;

(D) the development of a free market economic system; and

(E) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160).

(3) DEFINITION.—As used in paragraph (1), the term ''assistance'' means assistance under the Foreign Assistance Act of 1961, credits, sales, and guarantees of extensions of credit under the Arms Export Control Act, assistance under titles I and III of the Agricultural Trade Development and Assistance Act of 1954, assistance under the FREEDOM Support Act of 1992, and any other program of assistance or credits provided by the United States to other countries under other provisions of law, except that the term ''assistance'' does not include humanitarian assistance, including disaster relief assistance.

SEC. 6221. EXPULSION OF CRIMINALS FROM CUBA.

The President shall instruct all United States Government officials who engage in official conduct with the Cuban Government to raise on a regular basis the extradition of or rendering to the United States all persons residing in Cuba who are sought by the United States Department of Justice for crimes committed in the United States.

PART 2—ASSISTANCE TO A FREE AND INDEPENDENT CUBA

SEC. 6231. POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.

The policy of the United States is as follows:

(1) To support the self-determination of the Cuban people.

(2) To recognize that the self-determination of the Cuban people is a sovereign and national right of the citizens of Cuba which must be exercised free of interference by the government of any other country.

(3) To encourage the Cuban people to empower themselves with a government which reflects the self-determination of the Cuban people.

(4) To recognize the potential for a difficult transition from the current regime in Cuba that may result from the initiatives taken by the Cuban people for self-determination in response to the intransigence of the Castro regime in not allowing any substantive political or economic reforms, and to be prepared to provide the Cuban people with humanitarian, developmental, and other economic assistance.

(5) In solidarity with the Cuban people, to provide appropriate forms of assistance—

(A) to a transition government in Cuba;

(B) to facilitate the rapid movement from such a transition government to a democratically elected government in Cuba that results from an expression of the self-determination of the Cuban people; and

(C) to support such a democratically elected government.

(6) Through such assistance, to facilitate a peaceful transition to representative democracy and a market economy in Cuba and to consolidate democracy in Cuba.

(7) To deliver such assistance to the Cuban people only through a transition government in Cuba, through a democratically elected government in Cuba, through United States Government organizations, or through United States, international, or indigenous nongovernmental organizations.

(8) To encourage other countries and multilateral organizations to provide similar assistance, and to work cooperatively with such countries and organizations to coordinate such assistance.

(9) To ensure that appropriate assistance is rapidly provided and distributed to the people of Cuba upon the institution of a transition government in Cuba.

(10) Not to provide favorable treatment or influence on behalf of any individual or entity in the selection by the Cuban people of their future government.

(11) To assist a transition government in Cuba and a democratically elected government in Cuba to prepare the Cuban military forces for an appropriate role in a democracy.

(12) To be prepared to enter into negotiations with a democratically elected government in Cuba either to return the United States Naval Base at Guantanamo to Cuba or to renegotiate the present agreement under mutually agreeable terms.

(13) To consider the restoration of diplomatic recognition and support the reintegration of the Cuban Government into Inter-American organizations when the President determines that there exists a democratically elected government in Cuba.

(14) To take steps to remove the economic embargo of Cuba when the President determines that a transition to a democratically elected government in Cuba has begun.

(15) To assist a democratically elected government in Cuba to strengthen and stabilize its national currency.

(16) To pursue trade relations with a free, democratic, and independent Cuba.

SEC. 6232. ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President shall develop a plan for providing economic assistance to Cuba at such time as the President determines that a transition government or a democratically elected government in Cuba (as determined under section 6233(c)) is in power.

(2) EFFECT ON OTHER LAWS.—Assistance may be provided under this section subject to an authorization of appropriations and subject to the availability of appropriations.

(b) PLAN FOR ASSISTANCE.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan for providing assistance under this section—

(A) to Cuba when a transition government in Cuba is in power; and

(B) to Cuba when a democratically elected government in Cuba is in power.

(2) TYPES OF ASSISTANCE.—Assistance under the plan developed under paragraph (1) may, subject to an authorization of appropriations and subject to the availability of appropriations, include the following:

(A) TRANSITION GOVERNMENT.—(i) Except as provided in clause (ii), assistance to Cuba under a transition government shall, subject to an authorization of appropriations and subject to the availability of appropriations, be limited to—

(I) such food, medicine, medical supplies and equipment, and assistance to meet emergency energy needs, as is necessary to meet the basic human needs of the Cuban people; and

(II) assistance described in subparagraph (C).

(ii) Assistance provided only after the President certifies to the appropriate congressional committees, in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, that such assistance is essential to the successful completion of the transition to democracy.

(iii) Only after a transition government in Cuba is in power, remittances by individuals to their relatives of cash or goods, as well as freedom to travel to visit them without any restrictions, shall be permitted.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—Assistance to a democratically elected government in Cuba may, subject to an authorization of appropriations and subject to the availability of appropriations, consist of additional economic assistance, together with assistance described in subparagraph (C). Such economic assistance may include—

(i) assistance under chapter 1 of part I (relating to development assistance), and chapter 4 of part II (relating to the economic support fund), of the Foreign Assistance Act of 1961;

(ii) assistance under the Agricultural Trade Development and Assistance Act of 1954;

(iii) financing, guarantees, and other forms of assistance provided by the Export-Import Bank of the United States;

(iv) financial support provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(v) assistance provided by the Trade and Development Agency;

(vi) Peace Corps programs; and

(vii) other appropriate assistance to carry out the policy of section 6231.

(C) MILITARY ADJUSTMENT ASSISTANCE.—Assistance to a transition government in Cuba and to a democratically elected government in Cuba shall also include assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy.

(c) STRATEGY FOR DISTRIBUTION.—The plan developed under subsection (b) shall include a strategy for distributing assistance under the plan.

(d) DISTRIBUTION.—Assistance under the plan developed under subsection (b) shall be provided through United States Government organizations and nongovernmental organizations and private and voluntary organizations, whether within or outside the United States, including humanitarian, educational, labor, and private sector organizations.

(e) INTERNATIONAL EFFORTS.—The President shall take the necessary steps—

(1) to seek to obtain the agreement of other countries and of international financial institutions and multilateral organizations to provide to a transition government in Cuba, and to a democratically elected government in Cuba, assistance comparable to that provided by the United States under this subtitle; and

(2) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(f) COMMUNICATION WITH THE CUBAN PEOPLE.—The President shall take the necessary steps to communicate to the Cuban people the plan for assistance developed under this section.

(g) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

(h) TRADE AND INVESTMENT RELATIONS.—

(1) REPORT TO CONGRESS.—The President, following the transmittal to the Congress of a determination under section 6233(c)(3) that a democratically elected government in Cuba is in power, shall submit to the appropriate congressional committees a report that describes—

(A) acts, policies, and practices that constitute significant barriers to, or distortions of, United States trade in goods or services or foreign direct investment with respect to Cuba;

(B) policy objectives of the United States regarding trade relations with a democratically elected government in Cuba, and the reasons therefor, including possible—

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored- nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade Act of 1974 (relating to the Generalized System of Preferences) or as a beneficiary country under the Caribbean Basin Economic Recovery Act, and the implications of such designation with respect to trade with any other country that is such a beneficiary developing country or beneficiary country or is a party to the North American Free Trade Agreement; and

(iii) negotiations regarding free trade, including the accession of Cuba to the North American Free Trade Agreement;

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives described in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)); and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) CONSULTATIONS.—The President shall consult with the appropriate congressional committees and shall seek advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974 regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

SEC. 6233. COORDINATION OF ASSISTANCE PROGRAM; IMPLEMENTATION AND REPORTS TO CONGRESS; REPROGRAMMING.

(a) COORDINATING OFFICIAL.—The President shall designate a coordinating official who shall be responsible for—

(1) implementing the strategy for distributing assistance described in section 6232(b);

(2) ensuring the speedy and efficient distribution of such assistance; and

(3) ensuring coordination among, and appropriate oversight by, the agencies of the United States that provide assistance described in section 6232(b), including resolving any disputes among such agencies.

(b) UNITED STATES-CUBA COUNCIL.—Upon making a determination under subsection (c)(3) that a democratically elected government in Cuba is in power, the President, after consultation with the coordinating official, is authorized to designate a United States-Cuba council—

(1) to ensure coordination between the United States Government and the private sector in responding to change in Cuba, and in promoting market-based development in Cuba; and

(2) to establish periodic meetings between representatives of the United States and Cuban private sectors for the purpose of facilitating bilateral trade.

(c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.—

(1) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such transition government under the plan developed under section 6232(b).

(2) REPORTS TO CONGRESS.—(A) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance described in section 6232(b)(2) (A) and (C) to the transition government in Cuba under the plan of assistance developed under section 6232(b), the types of such assistance, and the extent to which such assistance has been distributed in accordance with the plan.

(B) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after making that determination.

(3) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such democratically elected government under the plan developed under section 6232(b).

(4) ANNUAL REPORTS TO CONGRESS.—Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 6232(b), including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

(d) REPROGRAMMING.—Any changes in the assistance to be provided under the plan developed under section 6232(b) may not be made unless the President notifies the appropriate congressional committees at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

SEC. 6234. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 6233(c)(1) that a transition government in Cuba is in power, the President, after consulting with the Congress, is authorized to take steps to suspend the economic embargo of Cuba to the extent that such action contributes to a stable foundation for a democratically elected government in Cuba.

(b) SUSPENSION OF CERTAIN PROVISIONS OF LAW.—In carrying out subsection (a), the President may suspend the enforcement of—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with regard to the ''Republic of Cuba'';

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act (22 U.S.C. 6003, 6004(d), 6005);

(4) section 902(c) of the Food Security Act of 1985; and

(5) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations.

(c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 6233(c)(3) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba.

(d) CONFORMING AMENDMENTS.—On the date on which the President submits a determination under section 6233(c)(3)—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking ''Republic of Cuba'';

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005) are repealed; and

(4) section 902(c) of the Food Security Act of 1985 is repealed.

(e) REVIEW OF SUSPENSION OF ECONOMIC EMBARGO.—

(1) REVIEW.—If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section 6233(c)(3) that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) JOINT RESOLUTIONS.—For purposes of this subsection, the term ''joint resolution'' means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: ''That the Congress disapproves the action of the President under section 6234(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on ___.'', with the blank space being filled with the appropriate date.

(3) REFERRAL TO COMMITTEES.—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(4) PROCEDURES.—(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the 6-month period beginning on the date on which the President notifies the Congress under paragraph (1) of the action taken under subsection (a), and in each 6-month period thereafter.

SEC. 6235. REQUIREMENTS FOR A TRANSITION GOVERNMENT.

For purposes of this subtitle, a transition government in Cuba is a government in Cuba which—

(1) is demonstrably in transition from communist totalitarian dictatorship to representative democracy;

(2) has recognized the right to independent political activity and association;

(3) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(4) has ceased any interference with Radio or Television Marti broadcasts;

(5) makes public commitments to and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) dissolving the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades;

(C) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

(D) effectively guaranteeing the rights of free speech and freedom of the press;

(E) organizing free and fair elections for a new government—

(i) to be held in a timely manner within a period not to exceed 1 year after the transition government assumes power;

(ii) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(iii) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other elections monitors;

(F) assuring the right to private property;

(G) taking appropriate steps to return to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such property;

(H) granting permits to privately owned telecommunications and media companies to operate in Cuba; and

(I) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the International Labor Organization, and allowing the establishment of independent social, economic, and political associations;

(6) does not include Fidel Castro or Raul Castro;

(7) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people;

(8) permits the deployment throughout Cuba of independent and unfettered international human rights monitors; and

(9) has extradited or otherwise rendered to the United States all persons sought by the United States Department of Justice for crimes committed in the United States.

SEC. 6236. REQUIREMENTS FOR A DEMOCRATICALLY ELECTED GOVERNMENT.

For purposes of this subtitle, a democratically elected government in Cuba, in addition to continuing to comply with the requirements of section 6235, is a government in Cuba which—

(1) results from free and fair elections conducted under the supervision of internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) has made demonstrable progress in establishing an independent judiciary;

(5) is substantially moving toward a market-oriented economic system;

(6) is committed to making constitutional changes that would ensure regular free and fair elections that meet the requirements of paragraph (2); and

(7) has made demonstrable progress in returning to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or providing full compensation for such property in accordance with international law standards and practice.

PART 3—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS AGAINST CONFISCATORY TAKINGS BY THE CASTRO REGIME

SEC. 6251. STATEMENT OF POLICY.

The Congress makes the following findings:

(1) The right of individuals to hold and enjoy property is a fundamental right recognized by the United States Constitution and international human rights law, including the Universal Declaration of Human Rights.

(2) The illegal confiscation or taking of property by governments, and the acquiescence of governments in the confiscation of property by their citizens, undermines the comity among nations, the free flow of commerce, and economic development.

(3) It is in the interest of all nations to respect equally the property rights of their citizens and nationals of other countries.

(4) Nations that provide an effective mechanism for prompt, adequate, and fair compensation for the confiscation of private property will continue to have the support of the United States.

(5) The United States Government has an obligation to its citizens to provide protection against illegal confiscation by foreign nations and their citizens, including the provision of private remedies.

(6) Nations that illegally confiscate private property should not be immune to another nation's laws whose purpose is to protect against the confiscation of lawfully acquired property by its citizens.

(7) Trafficking in illegally acquired property is a crime under the laws of the United States and other nations, yet this same activity is allowed under international law.

(8) International law, by not providing effective remedies, condones the illegal confiscation of property and allows for the unjust enrichment from the use of confiscated property by governments and private entities at the expense of those who hold legal claim to the property.

(9) The development of an international mechanism sanctioning those governments and private entities that confiscate and unjustly use private property so confiscated should be a priority objective of United States foreign policy.

SEC. 6252. LIABILITY FOR TRAFFICKING IN PROPERTY CONFISCATED FROM UNITED STATES NATIONALS.

(a) CIVIL REMEDY.—

(1) LIABILITY FOR TRAFFICKING.—(A) Except as provided in paragraphs (3) and (4), any person, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, that, after the end of the 6-month period beginning on the date of the enactment of this Act, traffics in confiscated property shall be liable to any United States national who owns the claim to such property for money damages in an amount equal to the sum of—

(i) the amount which is the greater of—

(I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949, plus interest;

(II) the amount determined under section 6253(a)(2), plus interest; or

(III) the fair market value of that property, calculated as being the then current

value of the property, or the value of the property when confiscated plus interest, whichever is greater; and

(ii) reasonable costs and attorneys' fees.

(B) Interest under subparagraph (A)(ii) shall be at the rate set forth in section 1961 of title 28, United States Code, computed by the court from the date of the confiscation of the property involved to the date on which the action is brought under this subsection.

(2) PRESUMPTION IN FAVOR OF CERTIFIED CLAIMS.—There shall be a presumption that the amount for which a person, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, is liable under clause (i) of paragraph (1)(A) is the amount that is certified under subclause (I) of that clause. The presumption shall be rebuttable by clear and convincing evidence that the amount described in subclause (II) or (III) of that clause is the appropriate amount of liability under that clause.

(3) INCREASED LIABILITY FOR PRIOR NOTICE.—Except as provided in paragraph (4), any person, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, that traffics in confiscated property after having received—

(A) notice of a claim to ownership of the property by a United States national who owns a claim to the confiscated property, and

(B) notice of the provisions of this section,

shall be liable to that United States national for money damages in an amount which is the sum of the amount equal to the amount determined under paragraph (1)(A)(ii) plus triple the amount determined applicable under subclause (I), (II), or (III) of paragraph (1)(A)(i).

(4) APPLICABILITY.—(A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of the enactment of this Act.

(B) In the case of property confiscated before the date of the enactment of this Act, no United States national may bring an action under this section unless such national acquired ownership of the claim to the confiscated property before such date.

(C) In the case of property confiscated on or after the date of the enactment of this Act, no United States national who acquired ownership of a claim to confiscated property by assignment for value after such date of enactment may bring an action on the claim under this section.

(5) TREATMENT OF CERTAIN ACTIONS.—(A) In the case of any action brought under this section by a United States national who was eligible to file the underlying claim in the action with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but did not so file the claim, the court may hear the case only if the court determines that the United States national had good cause for not filing the claim.

(B) In the case of any action brought under this section by a United States national whose claim in the action was timely filed with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court may assess the basis for the denial and may accept the findings of the Commission on the claim as conclusive in the action under this section unless good cause justifies another result.

(6) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based upon the act of state doctrine, to make a determination on the merits in an action brought under paragraph (1).

(b) DEFINITION.—As used in this subsection, the term ''agency or instrumentality of a foreign state'' has the meaning given that term in section 1603(b) of title 28, United States Code.

(c) JURISDICTION.—

(1) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by inserting after section 1331 the following new section:

''§ 1331a. Civil actions involving confiscated property

''The district courts shall have exclusive jurisdiction of any action brought under section 6252 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995, regardless of the amount in controversy.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1331 the following:

''1331a. Civil actions involving confiscated property.''.

(d) CERTAIN PROPERTY IMMUNE FROM EXECUTION.—Section 1611 of title 28, United States Code, is amended by adding at the end the following:

''(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 6252 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995 to the extent the property is a facility or installation used by an accredited diplomatic mission for official purposes.''.

(e) ELECTION OF REMEDIES.—

(1) ELECTION.—Subject to paragraph (2)—

(A) any United States national that brings an action under this section may not bring any other civil action or proceeding under the common law, Federal law, or the law of any of the several States, the District of Columbia, or any territory or possession of the United States, that seeks monetary or nonmonetary compensation by reason of the same subject matter; and

(B) any person who brings, under the common law or any provision of law other than this section, a civil action or proceeding for monetary or nonmonetary compensation arising out of a claim for which an action would otherwise be cognizable under this section may not bring an action under this section on that claim.

(2) TREATMENT OF CERTIFIED CLAIMANTS.—In the case of any United States national that brings an action under this section based on a claim certified under title V of the International Claims Settlement Act of 1949—

(A) if the recovery in the action is equal to or greater than the amount of the certified claim, the United States national may not receive payment on the claim under any agreement entered into between the United States and Cuba settling claims covered by such title, and such national shall be deemed to have discharged the United States from any further responsibility to represent the United States national with respect to that claim;

(B) if the recovery in the action is less than the amount of the certified claim, the United States national may receive payment under a claims agreement described in subparagraph (A) but only to the extent of the difference between the amount of the recovery and the amount of the certified claim; and

(C) if there is no recovery in the action, the United States national may receive payment on the certified claim under a claims agreement described in subparagraph (A) to the same extent as any certified claimant who does not bring an action under this section.

(f) DEPOSIT OF EXCESS PAYMENTS BY CUBA UNDER CLAIMS AGREEMENT.—Any amounts paid by Cuba under any agreement entered into between the United States and Cuba settling certified claims under title V of the International Claims Settlement Act of 1949 that are in excess of the payments made on such certified claims after the application of subsection (e) shall be deposited into the United States Treasury.

(g) TERMINATION OF RIGHTS.—

(1) IN GENERAL.—All rights created under this section to bring an action for money damages with respect to property confiscated before the date of the enactment of this Act shall cease upon the transmittal to the Congress of a determination of the President under section 6233(c)(3).

(2) PENDING SUITS.—The termination of rights under paragraph (1) shall not affect suits commenced before the date of such termination, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subsection had not been enacted.

SEC. 6253. DETERMINATION OF CLAIMS TO CONFISCATED PROPERTY.

(a) EVIDENCE OF OWNERSHIP.—

(1) CONCLUSIVENESS OF CERTIFIED CLAIMS.—In any action brought under this part, the courts shall accept as conclusive proof of ownership a certification of a claim to ownership that has been made by the Foreign Claims Settlement Commission pursuant to title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following).

(2) CLAIMS NOT CERTIFIED.—In the case of a claim that has not been certified by the Foreign Claims Settlement Commission before the enactment of this Act, a court may appoint a special master, including the Foreign Claims Settlement Commission, to make determinations regarding the amount and validity of claims to ownership of confiscated property. Such determinations are only for evidentiary purposes in civil actions brought under this part and do not constitute certifications pursuant to title V of the International Claims Settlement Act of 1949.

(3) EFFECT OF DETERMINATIONS OF FOREIGN ENTITIES.—In determining ownership, courts shall not accept as conclusive evidence of ownership any findings, orders, judgments, or decrees from administrative agencies or courts of foreign countries or international organizations that invalidate the claim held by a United States national, unless the invalidation was found pursuant to binding international arbitration to which United States national submitted the claim.

(b) AMENDMENT OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949.—Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following) is amended by adding at the end the following new section:

''EVALUATION OF OWNERSHIP CLAIMS REFERRED BY DISTRICT COURTS OF THE UNITED STATES

''SEC. 514. Notwithstanding any other provision of this title and only for purposes of section 6252 the Cuban Liberty and Solidarity (LIBERTAD) Act, a United States district court, for fact-finding purposes, may refer to the Commission, and the Commission may determine, questions of the amount and ownership of a claim by a United States national (as defined in section 6204 of the Cuban Liberty and Solidarity (LIBERTAD) Act) resulting from the confiscation of property by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a national of the United States (as defined in section 502(1)) at the time of the action by the Government of Cuba.''.

(c) RULE OF CONSTRUCTION.—Nothing in this subtitle or section 514 of the International Claims Settlement Act of 1949, as added by subsection (b), shall be construed—

(1) to require or otherwise authorize the claims of Cuban nationals who became United States citizens after their property was confiscated to be included in the claims certified to the Secretary of State by the Foreign Claims Settlement Commission for purposes of future negotiation and espousal of claims with a friendly government in Cuba when diplomatic relations are restored; or

(2) as superseding, amending, or otherwise altering certifications that have been made pursuant to title V of the International Claims Settlement Act of 1949 before the enactment of this Act.

SEC. 6254. EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE.

Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following), as amended by section 6253, is further amended by adding at the end the following new section:

''EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE

''SEC. 515. (a) Subject to subsection (b), neither any national of the United States who was eligible to file a claim under section 503 but did not timely file such claim under that section, nor any national of the United States (on the date of the enactment of this section) who was not eligible to file a claim under that section, nor any national of Cuba, including any agency, instrumentality, subdivision, or enterprise of the Government of Cuba or any local government of Cuba in place on the date of the enactment of this section, nor any successor thereto, whether or not recognized by the United States, shall have a claim to, participate in, or otherwise have an interest in, the compensation proceeds or other nonmonetary compensation paid or allocated to a national of the United States by virtue of a claim certified by the Commission under section 507, nor shall any court of the United States or any State court have jurisdiction to adjudicate any such claim.

''(b) Nothing in subsection (a) shall be construed to detract from or otherwise affect any rights in the shares of the capital stock of nationals of the United States owning claims certified by the Commission under section 507.''.

PART 4—EXCLUSION OF CERTAIN ALIENS

SEC. 6271. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS OR WHO TRAFFIC IN SUCH PROPERTY.

(a) GROUNDS FOR EXCLUSION.—The Secretary of State, in consultation with the Attorney General, shall exclude from the United States any alien who the Secretary of State determines is a person who—

(1) has confiscated, or has directed or overseen the confiscation of, property a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is owned by a United States national;

(2) traffics in confiscated property, a claim to which is owned by a United States national;

(3) is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(b) DEFINITIONS.—As used in this section, the following terms have the following meanings:

(1) CONFISCATED; CONFISCATION.—The terms ''confiscated'' and ''confiscation'' refer to—

(A) the nationalization, expropriation, or other seizure by foreign governmental authority of ownership or control of property on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by foreign governmental authority of, the default by foreign governmental authority on, or the failure by foreign governmental authority to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by foreign governmental authority;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by foreign governmental authority; or

(iii) a debt which was incurred by foreign governmental authority in satisfaction or settlement of a confiscated property claim.

(2) PROPERTY.—The term ''property'' does not include claims arising from a territory in dispute as a result of war between United Nations member states in which the ultimate resolution of the disputed territory has not been resolved.

(3) TRAFFICS.—(A) A person or entity ''traffics'' in property if that person or entity knowingly and intentionally—

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clauses (i) and (ii)) by another person, or otherwise engages in trafficking (as described in clauses (i) and (ii)) through another person,

without the authorization of the United States national who holds a claim to the property.

(B) The term ''traffics'' does not include—

(i) the delivery of international telecommunication signals to Cuba that are authorized by section 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(e)); or

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national.

(c) NATIONAL INTEREST EXEMPTION.—This section shall not apply where the Secretary of State finds, on a case-by-case basis, that making a determination under subsection (a) would be contrary to the national interest of the United States.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—This section applies to aliens seeking to enter the United States on or after the date of the enactment of this Act.

(2) TRAFFICKING.—This section applies only with respect to acts within the meaning of ''traffics'' that occur on or after the date of the enactment of this Act.

TITLE VII—COMMITTEE ON THE JUDICIARY

SEC. 7001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking ''1998'' and inserting ''2002'';

(2) in subsection (b)(2) by striking ''1998'' and inserting ''2002''; and

(3) in subsection (c)—

(A) by striking ''through 1998'' and inserting ''through 2002''; and

(B) by adding at the end the following:

''(9) $119,000,000 in fiscal year 1999.

''(10) $119,000,000 in fiscal year 2000.

''(11) $119,000,000 in fiscal year 2001.

''(12) $119,000,000 in fiscal year 2002.''.

TITLE VIII—COMMITTEE ON NATIONAL SECURITY

Subtitle A—Military Retired Pay

SEC. 8001. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) CONFORMANCE WITH SCHEDULE FOR CIVIL SERVICE COLAS.—Subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended—

(1) by striking out ''THROUGH 1998'' the first place it appears and all that follows through ''In the case of'' the second place it appears and inserting in lieu thereof ''THROUGH 1996.—In the case of'';

(2) by striking ''of 1994, 1995, 1996, or 1997'' and inserting in lieu thereof ''of 1993, 1994, or 1995''; and

(3) by striking out ''September'' and inserting in lieu thereof ''March''.

(b) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—Section 8114A(b) of Public Law 103–335 (108 Stat. 2648) is repealed.

Subtitle B—Naval Petroleum Reserves

SEC. 8011. SALE OF NAVAL PETROLEUM RESERVES.

(a) SALE OF RESERVES REQUIRED.—Chapter 641 of title 10, United States Code, is amended by inserting after section 7421 the following new section:

''§ 7421a. Sale of naval petroleum reserves

''(a) SALE REQUIRED.—(1) Notwithstanding any other provision of this chapter, the Secretary shall sell all right, title, and interest of the United States in and to the lands owned or controlled by the United States inside the naval petroleum and oil shale reserves established by this chapter. In the case of Naval Petroleum Reserve Numbered 1, the lands to be sold shall include sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California.

''(2) Not later than September 30, 1996, the Secretary shall enter into one or more contracts for the sale of all of the interest of the United States in the naval petroleum reserves.

''(b) TIMING AND ADMINISTRATION OF SALE.—(1) Not later than January 1, 1996, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the fair market value of the interest of the United States in each naval petroleum reserve. In making their assessments for each naval petroleum reserve, the independent experts shall consider (among other factors) all equipment and facilities to be included in the sale, the net present value of the reserve, and the net present value of the anticipated revenue stream that the Secretary determines the Treasury would receive from the reserve if it were not sold, adjusted for any anticipated increases in tax revenues that would result if it were sold. The independent experts shall complete their assessments not later than June 1, 1996. In setting the minimum acceptable price for each naval petroleum reserve, the Secretary shall consider the average of the five assessments regarding the reserve or, if more advantageous to the Government, the average

of three assessments after excluding the high and low assessments.

''(2) Not later than March 1, 1996, the Secretary shall retain the services of an investment banker to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of the naval petroleum reserves under this section. The Secretary may enter into the contracts required under this paragraph and paragraph (1) on a noncompetitive basis.

''(3) Not later than June 1, 1996, the sales administrator selected under paragraph (2) shall complete a draft contract for the sale of each naval petroleum reserve, which shall accompany the invitation for bids and describe the terms and provisions of the sale of the interest of the United States in the reserve. Each draft contract shall identify all equipment and facilities to be included in the sales. Each draft contract, including the terms and provisions of the sale of the interest of the United States in the naval petroleum reserves, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

''(4) Not later than July 1, 1996, the Secretary shall publish an invitation for bids for the purchase of the naval petroleum reserves.

''(5) Not later than September 1, 1996, the Secretary shall accept the highest responsible offer for purchase of the interest of the United States in the naval petroleum reserves, or a particular reserve, that meets or exceeds the minimum acceptable price determined under paragraph (1). The Secretary may accept an offer for only a portion of a reserve so long as the entire reserve is still sold under this section at a price that meets or exceeds the minimum acceptable price.

''(c) FUTURE LIABILITIES.—To effectuate the sale of the interest of the United States in a naval petroleum reserve, the Secretary may extend such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser from claims arising from the ownership in the reserve by the United States.

''(d) SPECIAL RULES PREPARATORY TO SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) Not later than June 1, 1996, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

''(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in the Naval Petroleum Reserve Numbered 1 in accordance with such recommendation, or the Secretary may use such other method to establish final equity interest in that reserve as the Secretary considers appropriate. The Secretary may enter into the contract required under this paragraph on a noncompetitive basis.

''(3) If, on the effective date of this section, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, such dispute shall be resolved in the manner provided in the unit plan contract not later than June 1, 1996. Such resolution shall be considered final for all purposes under this section.

''(4) In this section, the term 'unit plan contract' means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 (Elk Hills) entered into on June 19, 1944.

''(e) PRODUCTION ALLOCATION REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) As part of the contract for purchase of Naval Petroleum Reserve Numbered 1, the purchaser of the interest of the United States in that reserve shall agree to make up to 25 percent of the purchaser's share of annual petroleum production from the purchased lands available for sale to small refiners, which do not have their own adequate sources of supply of petroleum, for processing or use only in their own refineries. None of the reserved production sold to small refiners may be resold in kind. The purchaser of that reserve may reduce the quantity of petroleum reserved under this subsection in the event of an insufficient number of qualified bids. The seller of this petroleum production has the right to refuse bids that are less than the prevailing market price of comparable oil.

''(2) The purchaser of Naval Petroleum Reserve Numbered 1 shall also agree to ensure that the terms of every sale of the purchaser's share of annual petroleum production from the purchased lands shall be so structured as to give full and equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike.

''(f) MAINTAINING PRODUCTION PENDING SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce that reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract. The definition of maximum efficient rate in section 7420(6) of this title shall not apply to Naval Petroleum Reserve Numbered 1.

''(g) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date of this section, for the purchase of production from any part of the United States' share of the naval petroleum reserves, the sale of the interest of the United States in the reserves shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date of this section for the purchase of such production shall not exceed the anticipated closing date for the sale of the reserve.

''(2) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–ACO1–85FE60520 so that the contract terminates not later than the date of closing of the sale of that reserve.

''(3) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of that reserve.

''(h) OFFER OF SETTLEMENT OF STATE OF CALIFORNIA CLAIMS REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) In connection with the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall offer to settle all claims against the United States by the State of California and the Teachers' Retirement Fund of the State of California with respect to lands within that reserve, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from that reserve. Subject to paragraph (2), the Secretary shall offer in settlement of such claims—

''(A) a payment from funds provided for this purpose in advance in appropriation Acts;

''(B) a grant of land pursuant to sections 2275 and 2276 of the Revised Statutes of the United States (43 U.S.C. 851 and 852) so long as such land is not generating revenue for the United States;

''(C) any other option that would not be inconsistent with the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.); or

''(D) any combination of subparagraphs (A), (B), and (C).

''(2) The value of any payment, grant, or option (or combination thereof) offered as settlement under paragraph (1) may not exceed an amount equal to seven percent of the proceeds from the sale of Naval Petroleum Reserve Numbered 1, after deducting the costs incurred to conduct the sale of that reserve.

''(3) Acceptance of the settlement offered under paragraph (1) shall be subject to the condition that all claims against the United States by the State of California or the Teachers' Retirement Fund of the State of California are released with respect to lands within the Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from that reserve. The Secretary may specify the manner in which the release of such claims shall be evidenced.

''(i) EFFECT ON ANTITRUST LAWS.—Nothing in this section shall be construed to alter the application of the antitrust laws of the United States to the purchaser of a naval petroleum reserve or to the lands in the naval petroleum reserves subject to sale under this section upon the completion of the sale.

''(j) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this section shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of the naval petroleum reserves.

''(k) CONGRESSIONAL NOTIFICATION.—Section 7431 of this title shall not apply to the sale of the naval petroleum reserves under this section. However, the Secretary may not enter into a contract for the sale of a naval petroleum reserve until the end of the 15-day period beginning on the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on National Security and the Committee on Commerce of the House of Representatives that the Secretary has accepted an offer under subsection (b)(5) for the sale of that reserve.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following new item:

''7421a. Sale of naval petroleum reserves.''.

Subtitle C—National Defense Stockpile

SEC. 8021. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as of the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of aluminum, ferro columbium, germanium, palladium, platinum, and rubber contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and

(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(3) The President is not required to include the disposal of the materials identified in paragraph (2) in an annual materials plan for the National Defense Stockpile. Disposals made under this section may be made without consideration of the requirements of an annual materials plan.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	42,482,323 pounds contained
Ferro Columbium.	930,911 pounds contained
Germanium.	68,207 kilograms
Palladium	1,264,601 troy ounces
Platinum .	452,641 troy ounces
Rubber	125,138 long tons

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.

(f) DEFINITION.—The term ''National Defense Stockpile'' means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

TITLE IX—COMMITTEE ON RESOURCES

SEC. 9000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Subtitle A—Alaska and Helium Privatization

PART 1—ALASKA

SEC. 9001. EXPORTS OF ALASKAN NORTH SLOPE OIL.

(a) AMENDMENT OF MINERAL LEASING ACT.—Section 28(s) of the Mineral Leasing Act (30 U.S.C. 185(s)) is amended to read as follows:

''EXPORTS OF ALASKAN NORTH SLOPE OIL

''(s)(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within 5 months after the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

''(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

''(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of the date of the enactment of this subsection; and

''(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including in noncontiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

''(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

''(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exports of this oil or under Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76).

''(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

''(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

''(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.''.

(b) GAO REPORT.—

(1) REVIEW.—The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast and in Hawaii. The Comptroller General shall commence this review 2 years after the date of enactment of this Act and, within 6 months after commencing the review, shall provide a report to the Committee on Resources and the Committee on Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) CONTENTS OF REPORT.—The report shall contain a statement of the principal findings of the review and recommendations for Congress and the President to address job loss in the shipbuilding and ship repair industry on the West Coast, as well as adverse impacts on consumers and refiners on the West Coast and in Hawaii, that the Comptroller General attributes to Alaska North Slope oil exports.

SEC. 9002. ARCTIC COASTAL PLAIN LEASING AND REVENUE.

(a) PURPOSE.—It is the purpose of this section to reduce the Federal deficit by an estimated $1,300,000,000 over the next 5 years. This revenue will be derived from competitive bonus bids for oil and gas leases in the Coastal Plain area of Alaska's North Slope.

(b) DEFINITIONS.—For the purposes of this section:

(1) The term ''Secretary'' means the Secretary of the Interior.

(2) The term ''Coastal Plain'' means that portion of the Arctic National Wildlife Refuge identified in section 1002(b)(1) of the Alaska National Interest Lands Conservation Act of 1980 (Public Law 96–487; 16 U.S.C. 3142(b)(1)) consisting of approximately 1,549,000 acres.

(c) COMPATIBILITY.—Congress hereby determines that the oil and gas leasing program and activities authorized by this section in the Coastal Plain are compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(d) AUTHORIZATION.—(1) Congress hereby authorizes and directs the Secretary to establish and promptly implement a program to assure the expeditious competitive leasing exploration, development, production, and transportation of the oil and gas resources of the Coastal Plain. Regulations to implement this program and to govern oil and gas leasing, exploration, development and production shall be promulgated by the Secretary within 6 months of the date of enactment of this section.

(2) The Coastal Plain leasing program required by paragraph (1) shall include the following:

(A) The first lease sale of not less than 200,000 acres shall be conducted within 12 months of the date of enactment of this section.

(B) The lease sales shall be based upon an industry nomination process.

(C) The Secretary is directed to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on unleased Federal lands within the Coastal Plain. These regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary accepts the bids, with interest earned paid to the General Treasury for bids that are accepted, and to the unsuccessful bidders for bids that are rejected.

(D) Royalty payments shall not be less than 12½ percent, and rental payments shall be prescribed by the Secretary.

(E) The Attorney General of the United States and the Federal Trade Commission may conduct such review of lease terms and lease sale activities as are necessary to ensure compliance with the antitrust laws.

(F) The size of lease tracts may be up to 11,520 acres but not less than 2,560 acres, as determined by the Secretary, except that the Secretary may lease smaller tracts if he determines smaller tracts are necessary to promote a more competitive leasing program or are necessary in certain locations to mitigate reasonably foreseeable impacts on the environment.

(G) Each lease shall be issued for an initial period of up to 10 years and shall be extended as long as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or as drilling or reworking operations as approved by the Secretary are conducted thereon.

(H) The Secretary is authorized and directed to promulgate regulations and to include terms in leases to ensure that—

(i) activities are conducted pursuant to an approved exploration or development plan;

(ii) lessees secure an appropriate performance bond to cover activities;

(iii) provision is made for the suspension, cancellation, assignment, relinquishment and unitization of leases; and

(iv) the Secretary has access to lease information and that confidential, privileged or proprietary information furnished by lessees is adequately protected.

(e) JUDICIAL REVIEW.—Any complaint filed seeking judicial review of an action of the Secretary in promulgating any regulation under this section may be filed only in the United States Court of Appeals for the District of Columbia, and such complaint shall be filed within 90 days from the date of such promulgation, or after such date if such complaint is based solely on grounds arising after such 90th day, in which case the complaint must be filed within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint. Any complaint seeking judicial review of any other actions of the Secretary under this section may be filed in any appropriate district court of the United States, and such complaint must be filed within 90 days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such 90th day, in which case the complaint must be filed within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(f) ADMINISTRATION.—(1) Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2452; 16 U.S.C. 3143) is repealed.

(2) This section shall be considered the primary land management authorization for all activities associated with exploration, development, and production from the Coastal Plain. No land management review, determination, or other action shall be required except as specifically authorized by this section.

(g) PROTECTION OF FISH AND WILDLIFE RESOURCES AND OTHER ENVIRONMENTAL VALUES.—(1) Before conducting a competitive oil and gas lease sale under this section, the Secretary shall promulgate, within 6 months, as provided in subsection (d)(1), such rules and regulations as are necessary to ensure that oil and gas exploration, development, production, and transportation activities undertaken in the Coastal Plain achieve the reasonable protection of the fish and wildlife resources, environment and subsistence uses of the Coastal Plain.

(2) The Secretary shall administer the provisions of this section through regulations and lease terms that the Secretary determines to be necessary to mitigate reasonably foreseeable and significantly adverse effects on the fish and wildlife, surface resources and subsistence resources of the Coastal Plain.

(3)(A) The Secretary, after consultation with the State of Alaska, the city of Kaktovik, Alaska, and the North Slope Borough, is authorized to close to leasing and designate up to 30,000 acres of the Coastal Plain as Special Areas if the Secretary determines that these lands are of such unique character and interest so as to require special management and regulatory protection. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives 90 days in advance of making such designations. The Secretary may permit leasing of all or portions of any lands within the Coastal Plain designated as Special Areas by setting lease terms that limit or condition surface use and occupancy by lessees of such lands but permit the use of horizontal drilling technology from sites on leases located outside the designated Special Areas.

(B) Notwithstanding any other provision of law or any international agreement to which the United States is a party, the Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production as provided for in this part is set forth in subparagraph (A).

(4) The Secretary shall, in consultation with the State of Alaska, the city of Kaktovik, Alaska, and the North Slope Borough, develop guidelines to encourage the siting of facilities having common use characteristics (service bases, ports and docks, airports, major pipelines and roads) in a manner which leads to facility consolidation, avoids unnecessary duplication, utilizes existing facilities, minimizes impacts on fish, wildlife, habitat and the subsistence activities of residents of Native communities, and avoids disruption of the lives of the residents of the Village of Kaktovik and other communities.

(5) Notwithstanding title XI of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2457; 16 U.S.C. 3161 et seq.), the Secretary is authorized and directed to grant, under sections 28(a) through (t) and (v) through (y) of the Mineral Leasing Act (30 U.S.C. 185), rights-of-way and easements across the Coastal Plain for the purposes of this section, for pipeline construction, and the transportation of oil and gas and related purposes.

(6) The Secretary is authorized to close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife.

(h) APPLICATION OF ENVIRONMENTAL LAWS.—The ''Final Legislative Environmental Impact Statement'' (April 1987) prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2449; 16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (89 Stat. 424; 42 U.S.C. 4332(2)(C)) is hereby determined to be adequate and legally sufficient for all actions authorized pursuant to this section, including all phases of oil and gas leasing, exploration, development, production, transportation and related activities, including the granting of rights-of-way, use permits and other authorizations.

(i) NEW REVENUES.—(1) Notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest or other income derived from the leasing of oil and gas resources within the Coastal Plain shall be deposited into the Treasury of the United States: *Provided,* That 50 percent of all such Coastal Plain revenues shall be paid by the Secretary of the Treasury semiannually, on March 30th and on September 30th of each year, to the State of Alaska.

(2) On March 1st of each year following the date of enactment of this section, the Secretary shall prepare and submit to the Congress an annual report on the revenues derived and on the leasing program authorized by this section.

(j) CONVEYANCE.—Notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), the Secretary is authorized and directed to convey (1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611), and (2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

(k) PENALTY.—Any person, including any Federal official, who fails to comply with any provision or mandate of this section, a lease term, or a regulation promulgated under this section, after notice of such failure and expiration of a reasonable period for corrective action, shall be liable, after hearing, for a civil penalty of not more than $10,000 for each day of the continuance of such failure.

(l) COMMUNITY ASSISTANCE.—There is hereby established a Community Assistance Fund in the Treasury which shall be maintained at a level of $5,000,000 annually from the Federal share of Coastal Plain revenues and shall be available to the Secretary for the purposes of this section. Organized boroughs, other municipal subdivisions of the State of Alaska, and recognized Indian Reorganization Act entities which are impacted by activities authorized under this section shall be eligible, on application to the Secretary, for local assistance from the Community Assistance Fund for needed social services and to provide public services and facilities required in connection with supporting exploration and development of the Coastal Plain.

(m) EMPLOYMENT AND CONTRACTING.—As a condition of any leases, permits, or other Federal authorizations granted or issued pursuant to this section, a recipient of those leases, permits, or authorizations shall be required to use its best efforts to assure that the lessee and its agents and contractors provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State.

(n) USE OF ANWR REVENUES.—

(1) ESTABLISHMENT OF ENDOWMENT.—There is hereby established in the general fund of the Treasury a separate account which shall be known as the National Endowment for Fish and Wildlife.

(2) CONTENTS.—(A) Except as provided in subparagraph (B), the Endowment shall consist of revenues received from the following sources:

(i) Gifts, devises, and bequests to the Endowment.

(ii) Amounts appropriated by the Congress to the Endowment.

(iii) Any revenues deposited into the Treasury of the United States under subsection (i), from the Federal share of revenues derived from oil and gas leasing within the Coastal Plain, that exceed $1,300,000,000.

(B) After the Endowment has reached a level of $250,000,000 in principal, further payments to the Endowment shall consist only of the following:

(i) Gifts, devises, and bequests to the Endowment.

(ii) Amounts appropriated by the Congress to the Endowment.

(iii) 5 percent of the Federal royalties derived from commercial production of oil and gas on Federal leases on the Coastal Plain.

(3) ESTABLISHMENT OF FISH AND WILDLIFE CONSERVATION COMMISSION.—(A) To carry out the purposes of this subsection, there is hereby established a commission to be known as the Fish and Wildlife Conservation Commission.

(B) The Commission shall consist of—

(i) the Secretary of the Interior, who shall be the chairman,

(ii) 3 Members of the Senate selected by the President of the Senate, and

(iii) 3 Members of the House of Representatives selected by the Speaker.

(C) At least 1 member of the Commission selected from each House of Congress shall be a member of the minority party in that House.

(D) Any Member of the House of Representatives who is a member of the Commission, if reelected to the succeeding Congress, may serve on the Commission notwithstanding the expiration of a Congress.

(E) Any vacancy on the Commission shall be filled in the same manner as the original appointment.

(4) EXPENDITURES BY COMMISSION.—(A) The Fish and Wildlife Commission may make expenditures from the Endowment for the following fish and wildlife conservation purposes:

(i) Acquisition of important habitat lands for endangered species or threatened species from owners of private property. Such lands may be acquired solely on a willing seller basis and shall be managed by the Secretary of the Interior for the conservation of such species pursuant to the terms of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534).

(ii) Provision of funding for purposes authorized under the Endangered Species Act of 1973.

(iii) Provision of funds to the North American Wetlands Conservation Fund pursuant to the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

(B) The amount expended under subparagraph (A)(iii) each fiscal year shall equal or exceed 25 percent of the total expenditures from the Endowment in that fiscal year.

(C) The Secretary of the Interior may not recommend any lands or interest in lands for purchase or other forms of acquisition using funds made available under the terms of this section unless the Secretary of the Interior—

(i) has determined that such lands are necessary for the conservation of endangered species or other fish and wildlife; and

(ii) has consulted with the county or other unit of local government in which such lands are located and with the Governor of the State concerned.

(D) Land or an interest in land may not be acquired with moneys from the Endowment unless—

(i) the acquisition thereof has been approved by the Governor of the State in which the land is located; and

(ii) the owner of the land or interest has offered the land or interest for acquisition under this subsection and consented to the acquisition.

(5) ANNUAL REPORT.—The Commission shall, through its chairman, annually report in detail to the Congress, by not later than the first Monday in December, regarding the operations of the Commission during the preceding fiscal year.

(6) STATE LAW.—The jurisdiction of any State, both civil and criminal, over persons upon areas acquired under this subsection shall not be changed or otherwise affected by reason of the acquisition and administration of the areas by the United States as endangered species habitat. Nothing in this subsection is intended to interfere with the operation of the game laws of the States.

(7) ADMINISTRATION OF AREAS ACQUIRED.—Areas of lands, waters, or interest therein acquired or reserved pursuant to this subsection shall, unless otherwise provided by law, be administered by the Secretary of the Interior under rules and regulations prescribed by the Secretary to conserve and protect endangered species in accordance with the Endangered Species Act of 1973, or to restore or develop adequate wildlife habitat.

(8) DEFINITIONS.—In this subsection:

(A) The term ''Commission'' means the Fish and Wildlife Conservation Commission established by this subsection.

(B) The term ''Endowment'' means the National Endowment for Fish and Wildlife established by this subsection.

(9) CONFORMING AMENDMENT.—Section 7 of the North American Wetlands Conservation Act of 1989 (16 U.S.C. 4406) is amended by adding at the end the following:

''(e) FISH AND WILDLIFE COMMISSION FUNDING.—In addition to the amounts made available under subsections (a), (b), and (c) of this section, the Council may receive funds from the Fish and Wildlife Commission to carry

out the purposes of this Act. Use of such funds shall not be subject to the cost allocation requirements of section 8 of this Act.''.

SEC. 9003. ALASKA POWER ADMINISTRATION SALE.

(a) DEFINITIONS.—For purposes of this section:

(1) The term ''Eklutna assets'' means the Eklutna Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Eklutna Purchase Agreement.

(2) The term ''Eklutna Purchase Agreement'' means the August 2, 1989, Eklutna Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Eklutna Purchasers, together with any amendments thereto which were adopted before the enactment of this section.

(3) The term ''Eklutna Purchasers'' means the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc. and the Matanuska Electric Association, Inc.

(4) The term ''Secretary'' means the Secretary of Energy except where otherwise specified.

(5) The term ''Snettisham assets'' means the Snettisham Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Snettisham Purchase Agreement.

(6) The term ''Snettisham Purchase Agreement'' means the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority and its successors in interest, together with any amendments thereto which were adopted before the enactment of this section.

(b) SALE OF SNETTISHAM AND EKLUTNA ASSETS.—

(1) SNETTISHAM.—The Secretary is authorized and directed to sell and transfer the Snettisham assets to the State of Alaska in accordance with the terms of this section and the Snettisham Purchase Agreement.

(2) EKLUTNA.—The Secretary is authorized and directed to sell and transfer the Eklutna assets to the Eklutna Purchasers in accordance with the terms of this section and the Eklutna Purchase Agreement.

(3) COOPERATION OF OTHER AGENCIES.—Other departments, agencies, and instrumentalities of the United States shall cooperate with the Secretary in implementing the sales and transfers under this section.

(4) AUTHORIZATION OF APPROPRIATIONS; CONTRIBUTED FUNDS.—(A) There are authorized to be appropriated such sums as may be necessary to prepare, survey, or acquire Snettisham and Eklutna assets for sale and transfer under this section. Such preparations and acquisitions shall provide sufficient title in the assets to ensure beneficial use, enjoyment, and occupancy thereof to the purchasers.

(B) Notwithstanding any other provision of law, the Alaska Power Administration is authorized to receive, administer, and expend such contributed funds as may be provided by the Eklutna Purchasers or customers or the Snettisham Purchasers or customers for the purposes of upgrading, improving, maintaining, or administering Eklutna or Snettisham. Upon the termination of the Alaska Power Administration required under subsection (d), the Secretary of Energy shall administer and expend any remaining balances of such contributed funds for the purposes intended by the contributors.

(C) The Secretary is directed to use up to $5,000,000 from unobligated balances available to the Department of Energy to fund any sale preparation costs for the sales under this section, and shall provide an accounting of all sale preparation costs to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate within 60 days after completion of the sale.

(c) GENERAL PROVISIONS.—

(1) RIGHTS-OF-WAY AND OTHER LANDS FOR THE EKLUTNA PROJECT.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(A) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers at no cost to the Eklutna Purchasers.

(B) Such rights-of-way shall remain effective for a period equal to the life of the Eklutna hydroelectric project as extended by improvements, repairs, renewals, or replacements.

(C) Such rights-of-way shall be sufficient for the operation, maintenance, repair, and replacement of, and access to, the facilities of the Eklutna hydroelectric project located on military lands and lands managed by the Bureau of Land Management, including land selected by, but not yet conveyed to, the State of Alaska.

(D) If the Eklutna Purchasers subsequently sell or transfer the Eklutna hydroelectric project to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with applicable law.

(E) The Secretary shall transfer fee title to lands at Anchorage Substation to the Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to and selections of those lands are invalid or relinquished.

(F) With respect only to the Eklutna lands identified in Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey, to the State, improved lands under the selection entitlements in section 6 of the Alaska Statehood Act (Public Law 85–508; 72 Stat. 339) and the North Anchorage Land Agreement of January 31, 1983. The conveyance of such lands is subject to the rights-of-way provided to the Eklutna Purchasers under subparagraph (A).

(2) LANDS FOR THE SNETTISHAM PROJECT.—With respect to the Snettisham lands identified in Exhibit A of the Snettisham Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlement in section 6 of the Alaska Statehood Act (Public Law 85–508; 72 Stat. 339).

(3) EFFECT ON STATE SELECTIONS.—Notwithstanding the expiration of the right of the State of Alaska to make selections under section 6 of the Alaska Statehood Act (Public Law 85–508; 72 Stat. 339), the State of Alaska may select lands authorized for selection under this section or any Purchase Agreement incorporated into or ratified by this section. The State shall complete such selections within one year after the date of the enactment of this section. The Secretary of the Interior shall convey lands selected by the State under this section notwithstanding the limitation contained in section 6(b) of the Alaska Statehood Act (Public Law 85–508; 72 Stat. 339) regarding the occupancy, appropriation, or reservation of selected lands. Nothing in this subsection shall be construed to authorize the Secretary of the Interior to convey to the State of Alaska a total acreage of selected lands in excess of the total acreage which could be transferred to the State of Alaska pursuant to the Alaska Statehood Act (Public Law 85–508; 72 Stat. 339), and other applicable law.

(4) REPEAL OF ACT OF AUGUST 9, 1955.—The Act of August 9, 1955 (69 Stat. 618), concerning water resources investigations in Alaska, is repealed.

(5) TREATMENT OF ASSET SALE.—The sales of assets under this section shall not be considered a disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

(6) APPLICATION OF CERTAIN LAWS.—(A) The Act of July 31, 1950 (64 Stat. 382), shall cease to apply on the date, as determined by the Secretary, when all Eklutna assets have been conveyed to the Eklutna Purchasers.

(B) Section 204 of the Flood Control Act of 1962 (Public Law 87–874; 76 Stat. 1193) shall cease to apply effective on the date, as determined by the Secretary, when all Snettisham assets have been conveyed to the State of Alaska.

(d) TERMINATION OF ALASKA POWER ADMINISTRATION.—

(1) TERMINATION OF ALASKA POWER ADMINISTATION.—Not later than one year after both of the sales authorized in this section have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary shall—

(A) complete the business of, and close out, the Alaska Power Administration;

(B) prepare and submit to Congress a report documenting the sales; and

(C) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(2) DOE ORGANIZATION ACT.—Section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended as follows:

(A) In paragraph (1)—

(i) by striking out subparagraph (C); and

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively.

(B) In paragraph (2), by striking out ''the Bonneville Power Administration, and the Alaska Power Administration'' and inserting in lieu thereof ''and the Bonneville Power Administration''.

The amendments made by this paragraph shall take effect on the date on which the Secretary submits the report referred to in subparagraph (B) of paragraph (1).

(e) PROCEEDS.—The proceeds from the sale of Snettisham and Eklutna assets under this section shall be credited to miscellaneous receipts in the Treasury.

(f) SECTION 147(d) OF INTERNAL REVENUE CODE.—For purposes of section 147(d) of the Internal Revenue Code of 1986, the ''first use'' of Snettisham shall be considered to occur pursuant to acquistion of the property by or on behalf of the State of Alaska.

PART 2—HELIUM PRIVATIZATION

SEC. 9011. SHORT TITLE.

This part may be cited as the ''Helium Privatization Act of 1995''.

SEC. 9012. AMENDMENT OF HELIUM ACT.

Except as otherwise expressly provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

SEC. 9013. AUTHORITY OF SECRETARY.

Sections 3, 4, and 5 are amended to read as follows:

''SEC. 3. AUTHORITY OF SECRETARY.

''(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—(1) The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary. The Secretary may grant leasehold

rights to any such helium. The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium. Such agreements may be subject to such rules and regulations as may be prescribed by the Secretary.

''(2) Any agreement under this subsection shall be subject to the existing rights of any affected Federal oil and gas lessee. Each such agreement (and any extension or renewal thereof) shall contain such terms and conditions as deemed appropriate by the Secretary.

''(3) This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence at the enactment of the Helium Privatization Act of 1995 except to the extent that such agreements are renewed or extended after such date.

''(b) STORAGE, TRANSPORTATION, AND SALE.—The Secretary is authorized to store, transport, and sell helium only in accordance with this Act.

''(c) MONITORING AND REPORTING.—The Secretary is authorized to monitor helium production and helium reserves in the United States and to periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

''SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL OF CRUDE HELIUM.

''(a) STORAGE, TRANSPORTATION, AND WITHDRAWAL.—The Secretary is authorized to store and transport crude helium and to maintain and operate existing crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

''(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Effective 18 months after the date of enactment of the Helium Privatization Act of 1995, the Secretary shall cease producing, refining and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Privatization Act of 1995, except those activities described in subsection (a). The amount of helium reserves owned by the United States and stored in the Bureau of Mines Cliffside Field at such date of cessation, less 600,000,000 cubic feet, shall be the helium reserves owned by the United States required to be sold pursuant to section 8(b) hereof.

''(c) DISPOSAL OF FACILITIES.—(1) Within two years after the date on which the Secretary ceases producing, refining and marketing refined helium and ceases all other activities relating to helium in accordance with subsection (b), the Secretary shall dispose of all facilities, equipment, and other real and personal property, together with all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium. The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

''(2) All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f). All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

''(3) Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium or any equipment needed to maintain the purity, quality control, and quality assurance of helium in the reserve.

''(d) EXISTING CONTRACTS.—All contracts which were entered into by any person with the Secretary for the purchase by such person from the Secretary of refined helium and which are in effect on the date of the enactment of the Helium Privatization Act of 1995 shall remain in force and effect until the date on which the facilities referred to in subsection (c) are disposed of. Any costs associated with the termination of such contracts shall be paid from the helium production fund established under section 6(f).

''SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

''Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary is authorized and directed to impose fees on such person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal. All such fees received by the Secretary shall be treated as moneys received under this Act for purposes of section 6(f).''.

SEC. 9014. SALE OF CRUDE HELIUM.

Section 6 is amended as follows:

(1) Subsection (a) is amended by striking out ''from the Secretary'' and inserting ''from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary''.

(2) Subsection (b) is amended by inserting ''crude'' before ''helium'' and by adding the following at the end thereof: ''Except as may be required by reason of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.''.

(3) Subsection (c) is amended by inserting ''crude'' before ''helium'' the first place it appears and by striking ''together with interest as provided in subsection (d) of this section'' and all that follows down through the period at the end of such subsection and inserting the following:

''all funds required to be repaid to the United States as of October 1, 1995, under this section (hereinafter referred to as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:

''(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

''(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1995.''.

(4) Subsection (d) is amended to read as follows:

''(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.''.

(5) Subsection (e) is repealed.

(6) Subsection (f) is amended by inserting ''(1)'' after ''(f)'' and by adding the following at the end thereof:

''(2) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1). Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.''.

SEC. 9015. ELIMINATION OF STOCKPILE.

Section 8 is amended to read as follows:

''SEC. 8. ELIMINATION OF STOCKPILE.

''(a) REVIEW OF RESERVES.—The Secretary shall review annually the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves (other than Federally owned helium stored at the Cliffside Reservoir) at that time.

''(b) STOCKPILE SALES.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such minimum annual amounts as would be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet (mcf) on a straight-line basis between such date and January 1, 2015: *Provided*, That the minimum price for all such sales, as determined by the Secretary in consultation with the helium industry, shall be such as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c), and provided further that the minimum annual sales requirement may be deferred only if, and to the extent that, the Secretary is unable to arrange sales at the minimum price. The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, are necessary to carry out this subsection with minimum market disruption.

''(c) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium as provided in subsection (b), as the case may be.''.

SEC. 9016. REPEAL OF AUTHORITY TO BORROW.

Sections 12 and 15 are repealed.

SEC. 9017. REPORTS.

Section 16 is amended by redesignating existing section 16 as section 16(a) and inserting the following at the end thereof:

''(b)(1) The Inspector General of the Department of the Interior shall cause to be prepared, not later than March 31 following each fiscal year commencing with the date of enactment of the Helium Privatization Act of 1995, annual financial statements for the Helium Operations of the Bureau of Mines. The Director of the Bureau of Mines shall cooperate with the Inspector General in fulfilling this requirement, and shall provide him with such personnel and accounting assistance as may be necessary for that purpose. The financial statements shall be audited by the General Accounting Office, and a report on such audit shall be delivered by the General Accounting Office to the Secretary of the Interior and Congress, not later than June 30 following the end of the fiscal year for which they are prepared. The audit shall be prepared in accordance with generally accepted government auditing standards.

''(2) The financial statements shall be comprised of the following:

''(A) A balance sheet reflecting the overall financial position of the Helium Operations, including assets and liabilities thereof;

''(B) the Statement of Operations, reflecting the fiscal period results of the Helium Operations;

''(C) a statement cash flows or changes in financial position of the Helium Operations; and

''(D) a reconciliation of budget reports of the Helium Operations.

''(3) The Statement of Operations shall include but not be limited to the revenues from, and costs of, sales of crude helium, the storage and transportation of crude helium, the production, refining and marketing of refined helium, and the maintenance and operation of helium storage facilities at the Bureau of Mines Cliffside Field. The term 'revenues' for this purpose shall exclude (A) royalties paid to the United States for production of helium or other extraction of resources, except to the extent that the Helium Operations incur direct costs in connection therewith, and (B) proceeds from sales of assets other than inventory. The term 'expenses' shall include, but not be limited to (i) all labor costs of the Bureau of Mines Helium Operations, and of the Department of the Interior in connection therewith, and (ii) for financial reporting purposes but not in connection with the determination of sales prices in section 6(c), all current-period interest on outstanding repayable amounts (as described in section 6(c)) calculated at the same rates as such interest was calculated prior to the enactment of the Helium Privatization Act of 1995.

''(4) The balance sheet shall include, but not be limited to, on the asset side, the present discounted market value of crude helium reserves; and on the liability side, the accrued liability for principal and interest on debt to the United States. For financial reporting purposes but not in connection with the determination of sales prices in section 6(c), the balance sheet shall also include accrued but unpaid interest on outstanding repayable amounts (as described in section 6(c)) through the date of the report, calculated at the same rates as such interest was calculated prior to the enactment of the Helium Privatization Act of 1995.''.

SEC. 9018. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.

(a) IN GENERAL.—The Secretary of the Interior shall transfer all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the Texas Plains Girl Scout Council for consideration of $1, reserving to the United States such easements as may be necessary for pipeline rights-of-way.

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is all those certain lots, tracts or parcels of land lying and being situated in the County of Potter and State of Texas, and being the East Three Hundred Thirty-One (E331) acres out of Section Seventy-eight (78) in Block Nine (9), B.S. & F. Survey, (sometimes known as the G. D. Landis pasture) Potter County, Texas, located by certificate No. 1/39 and evidenced by letters patents Nos. 411 and 412 issued by the State of Texas under date of November 23, 1937, and of record in Vol. 66A of the Patent Records of the State of Texas. The metes and bounds description of such lands is as follows:

(1) FIRST TRACT.—One Hundred Seventy-one (171) acres of land known as the North part of the East part of said survey Seventy-eight (78) aforesaid, described by metes and bounds as follows:

Beginning at a stone 20 x 12 x 3 inches marked X, set by W. D. Twichell in 1905, for the Northeast corner of this survey and the Northwest corner of Section 59;

Thence, South 0 degrees 12 minutes East with the West line of said Section 59, 999.4 varas to the Northeast corner of the South 160 acres of East half of Section 78;

Thence, North 89 degrees 47 minutes West with the North line of the South 150 acres of the East half, 956.8 varas to a point in the East line of the West half Section 78;

Thence North 0 degrees 10 minutes West with the East line of the West half 999.4 varas to a stone 18 x 14 x 3 inches in the middle of the South line of Section 79;

Thence South 89 degrees 47 minutes East 965 varas to the place of beginning.

(2) SECOND TRACT.—One Hundred Sixty (160) acres of land known as the South part of the East part of said survey No. Seventy-eight (78) described by metes and bounds as follows:

Beginning at the Southwest corner of Section 59, a stone marked X and a pile of stones;

Thence North 89 degrees 47 minutes West with the North line of Section 77, 966.5 varas to the Southeast corner of the West half of Section 78; Thence North 0 degrees 10 minutes West with the East line of the West half of Section 78;

Thence South 89 degrees 47 minutes East 965.8 varas to a point in the East line of Section 78;

Thence South 0 degrees 12 minutes East 934.6 varas to the place of beginning.

Containing an area of 331 acres, more or less.

Subtitle B—Water and Power

PART 1—POWER MARKETING ADMINISTRATIONS

SEC. 9201. SHORT TITLE.

This part may be cited as the ''Power Administration Act''.

SEC. 9202. EVALUATION OF SALES OF SOUTHEASTERN, SOUTHWESTERN, AND WESTERN AREA POWER ADMINISTRATION FACILITIES.

(a) REPEALS.—The following provisions are repealed:

(1) Section 505 of Public Law 102–377, the Fiscal Year 1993 Energy and Water Development Appropriations Act.

(2) Section 208 of Public Law 99–349, the Urgent Supplemental Appropriations Act, 1986.

(3) Section 510 of Public Law 101–514, the Fiscal Year 1991 Energy and Water Development appropriations Act.

(b) EVALUATION OF ISSUES.—(1) The Secretary of Energy, the Secretary of the Interior, and the Secretary of the Army shall enter into arrangements with an experienced private sector firm to serve as advisor to the Secretaries with respect to the sale of the facilities used to generate and transmit the electric power marketed by the Southeastern Power Administration, the Southwestern Power Administration and the Western Area Power Administration, including all transmission and related structures, equipment, facilities and all real, tangible and intangible property (including rights-of-way) which are used in connection with, and necessary for, the operation of such power generation and transmission facilities.

(2) Prior to December 31, 1996, the advisor shall provide to the Secretaries and the Congress a report identifying all recipients of water and power from such facilities, all relevant contracts, debt obligations, equity interests, and other binding agreements which apply to the facilities concerned and to the sale of electric power from such facilities, all assets tangible or intangible, all applicable requirements relating to environmental mitigation, Indian trust responsibilities, land ownership or use rights relevant to the proposed transfers which could terminate based on a transfer out of Federal ownership, and navigational requirements which affect the operation of such facilities.

(3) In conducting the evaluation, the Secretaries and the advisor should also recognize that many of the dams and reservoirs associated with the generation of electric power marketed by the Power Marketing Administrations are first and foremost water supply, flood control, or navigation projects. In general, power generation is incidental to these primary purposes. In addition, there are also secondary purposes such as recreation and environmental values which are served by these facilities as well as the power production. The evaluation should assume that such facilities will continue to be operated in a manner consistent with their current, primary purposes and the evaluation directed by this section shall not assume any changes in the other current operational objectives of the facilities.

(4) Such evaluation shall also include an evaluation of the tax consequences, and the revenue impacts of such consequences for the United States, of possible arrangements for the sale of generation and transmission facilities to potential transferees identified by the advisor. The report shall also investigate alternative groupings of such generation and transmission facilities for purposes of sale in order to determine which groupings would be most desirable for purposes of effectuating such sales. Proposed transfers should be structured by watershed or by project unless the advisor can provide satisfactory information to the Secretaries that another alternative should be used. Asset groupings shall specifically be designed to avoid the sale of the most valuable assets while the Federal government would be forced to retain the less valuable assets.

SEC. 9203. BONNEVILLE POWER ADMINISTRATION APPROPRIATIONS REFINANCING.

(a) DEFINITIONS.—For the purposes of this section:

(1) The term ''Administrator'' means the Administrator of the Bonneville Power Administration.

(2) The term ''capital investment'' means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838(k)).

(3) The term ''new capital investment'' means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995.

(4) The term ''old capital investment'' means a capital investment whose capitalized cost—

(A) was incurred, but not repaid, before October 1, 1995; and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995.

(5) The term ''repayment date'' means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment.

(6) The term ''Treasury rate'' means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market

yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

(b) NEW PRINCIPAL AMOUNTS.—(1) Effective October 1, 1995, an old capital investment shall have a new principal amount that is the sum of—

(A) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(B) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(2) With the approval of the Secretary of the Treasury based solely on consistency with this Act, the Administrator shall determine the new principal amounts under paragraph (1) and the assignment of interest rates to the new principal amounts under subsection (c).

(3) For the purposes of this section, ''old payment amounts'' means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if this section were not enacted, assuming that—

(A) the principal were repaid—

(i) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

(B) interest were paid—

(i) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

(c) INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.—As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under subsection (b) shall bear interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

(d) REPAYMENT DATES.—As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under subsection (b) shall be no earlier than the repayment date for the old capital investment assumed in subsection (b)(3)(A).

(e) PREPAYMENT LIMITATIONS.—During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under subsection (b), that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

(f) INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.—(1) The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(A) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(B) accrued interest during construction.

(2) The Administrator shall not be required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under paragraph (1).

(3) For the purposes of this subsection, ''one-year rate'' for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

(g) INTEREST RATES FOR NEW CAPITAL INVESTMENTS.—The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

(h) CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.—The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103–436) is amended by striking section 6 and inserting the following:

''SEC. 6. CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.

''(a) IN GENERAL.—So long as the Adminisatrator makes annual payments to the tribes under the settlement agreement, the Administrator shall apply against amounts otherwise payable by the Administrator to the United States Treasury a credit that reduces the Administrator's payment in the amount and for each fiscal year as follows: $15,250,000 in fiscal year 1996; $15,860,000 in fiscal year 1997; $16,490,000 in fiscal year 1998; $17,150,000 in fiscal year 1999; $17,840,000 in fiscal year 2000; and $4,100,000 in each succeeding fiscal year.

''(b) DEFINITIONS.—For the purposes of this section—

''(1) the term 'settlement agreement' means that settlement agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the Tribes on April 16, 1994, and by the United States of America on April 21, 1994, which settlement agreement resolves claims of the Tribes in Docket 181–D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims; and

''(2) the term 'Tribes' means the Confederated Tribes of the Colville Reservation, a Federally recognized Indian Tribe.''.

(i) CONTRACT PROVISIONS.—In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under subsection (b);

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under subsection (c);

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under subsection (b), and to pay the interest on the principal amount under subsection (c), no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Act; and

(4) the contract provisions specified in this Act shall not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

(j) SAVINGS PROVISIONS.—(1) This section does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the ''Administrator's net proceeds,'' as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(2) Except as provided in subsection (e) of this section, this section does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

(k) DOE STUDY.—(1) The Administrator shall undertake a study to determine the effect that increases in the rates for electric power sales made by the Administrator may have on the customer base of the Bonneville Power Administration. Such study shall identify other sources of electric power that may be available to customers of the Bonneville Power Administration and shall estimate the level at which higher rates for power sales by the Administration may result in the loss of customers by the Administration.

(2) The Administrator shall undertake a study to determine the total prior costs incurred by the Bonneville Power Administration for compliance with the provisions of the Endangered Species Act of 1973 and the total future costs anticipated to be incurred by the Administration for compliance with such provisions.

(3) The Administrator shall submit the results of the studies undertaken under this section to the Congress within 180 days after the date of the enactment of this Act.

PART 2—RECLAMATION

SEC. 9211. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: ''The Secretary of the Interior shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under such terms and conditions as the Secretary deems appropriate to protect the interest of the United States, which shall be similar to the terms and conditions contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002.''.

SEC. 9212. TREATMENT OF CITY OF FOLSOM AS A CENTRAL VALLEY PROJECT CONTRACTOR.

For the purposes of being considered eligible to be a transferee of Central Valley Project water to be used for municipal and industrial purposes, the city of Folsom, California, shall be treated as a Central Valley Project contractor as of November 1, 1990.

SEC. 9213. SLY PARK.

(a) SHORT TITLE.—This section may be cited as the ''Sly Park Unit Conveyance Act''.

(b) DEFINITIONS.—For purposes of this section:

(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 American River Act of October 14, 1949 (63 Stat. 852), 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) IN GENERAL.—The Secretary shall, within one year after the date of enactment of this Act, sell and convey to the El Dorado Irrigation District the Sly Park Unit. Within such one-year period, the Secretary shall also transfer and assign the water rights relating to the Sly Park Unit held in trust by the Secretary for diversion and storage under California State permits numbered 2631, 5645A, 10473, and 10474 to the El Dorado Irrigation District.

(2) SALE PRICE.—The sale price shall not exceed—

(A) the construction costs ($30,926,230), as included in the accounts of the Secretary, plus

(B) interest on the construction costs allocated to domestic use, at the authorized rate included in enactment of the Act of October 14, 1949 (63 Stat. 852), up to an agreed upon date, less

(C) all revenues to date as collected under the terms of the contract between the United States and the El Dorado Irrigation District, estimated at $9,146,885.

(3) TERMS OF PAYMENT.—The Secretary shall provide for a payment of the purchase price under paragraph (2) on terms not to exceed 20 years. The interest rate to be paid by the District shall be the authorized rate included in the Act of October 14, 1949 (63 Stat. 852). Section 213(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(c)) shall not apply to the purchase of the Sly Park Unit under this section.

(4) CONVEYANCE.—Upon signing the agreement to carry out the sale required by this section, the Secretary shall convey and assign to the El Dorado Irrigation District all right, title, and interest of the United States in and to the Sly Park Unit.

(5) NO ADDITIONAL ENVIRONMENTAL IMPACT.—The Congress specifically finds that (A) the sale, conveyance and assignment of the Sly Park Unit and water rights under this section involves the transfer of the ownership and operation of an existing ongoing water project, (B) the Sly Park Unit operation, facilities and water rights have been, and after the sale and transfer will continue to be, committed to maximum reasonable and beneficial use for existing services, and (C) the sale, conveyance and assignment of the Sly Park Unit and water rights does not involve any additional growth or expansion of the project or other environmental impacts. Consequently, the sale, conveyance and assignment of the Sly Park Unit and water rights shall not be subject to environmental review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332) or endangered species review or consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536).

SEC. 9214. HETCH HETCHY DAM.

Section 7 of the Act of December 19, 1913 (38 Stat. 242), is amended—

(1) by striking ''$30,000'' in the first sentence and inserting ''$8,000,000'', and

(2) by amending the second and third sentences to read as follows: ''These funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until appropriated by the Congress. The highest priority use of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.''.

Subtitle C—National Parks, Forests, and Public Lands

PART 1—CONCESSION REFORM

SEC. 9301. SHORT TITLE.

This part may be cited as the ''Visitor Facilities and Services Enhancement Act of 1995''.

SEC. 9302. PURPOSE.

The purpose of this part is to ensure that quality visitor facilities and services are provided by the Federal land management agencies (Forest Service, United States Fish and Wildlife Service, National Park Service, Bureau of Land Management, Bureau of Reclamation and United States Army Corps of Engineers). Each Federal land management agency shall implement a program to encourage appropriate development and operation of services and facilities for the accommodation of visitors. The program implemented by each such agency shall consist of actions which—

(1) recognize the importance of the private sector in providing a quality visitor experience on Federal lands by encouraging private sector investments for facilities and services on Federal lands under a fair and competitive process;

(2) establish the basis for an effective relationship between the land management agencies and private businesses operating on public lands and waters in efforts to serve the public and to protect the resources of these areas;

(3) measure quality and value of services provided by concessioners and provide incentives for consistent excellence.

(4) ensure a fair return to the Federal Government; and

(5) are consistent among the various agencies to the extent practicable in order to increase efficiency of the Federal Government and simplify requirements for concessioners.

SEC. 9303. DEFINITIONS.

For the purposes of this part:

(1) The term ''adjusted gross receipts'' means gross receipts less revenue derived from goods and services provided on other than Federal lands or conveyed to units of Government for hunting or fishing licenses or for entrance or recreation fees, or from such other exclusions as the Secretary concerned might apply.

(2) The term ''agency head'' means the head of an agency or his or her designated representative.

(3) The term ''concessioner'' means a person or other entity acting under a concession authorization which provides public services, facilities, or activities on Federal lands or waters pursuant to a concession services agreement or concession license.

(4) The term ''concession license'' means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide recreation services or activities on a limited basis as well as the rights and obligations of the Federal Government.

(5) The term ''concession service agreement'' means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide visitor services, facilities, or activities as well as the rights and obligations of the Federal Government.

(6) The term ''gross receipts'' means revenue from goods or services provided by concession services, facilities, or activities on Federal lands and waters.

(7) The term ''performance incentive'' means a credit based on past performance toward the score awarded by the Secretary to a concessioner's proposal submitted in response to a solicitation for the reissuance of such contract.

(8) The term ''proposal'' means the complete submission for a concession service agreement offered in response to the solicitation for such concession service agreement.

(9) The term ''prospectus'' means a document or documents issued by the Secretary concerned and included with a solicitation which sets forth the minimum requirements for the award of a concession service agreement.

(10) The term ''Secretary concerned'' means—

(A) the Secretary of the Interior with respect to the United States Fish and Wildlife Service, National Park Service, Bureau of Land Management, and Bureau of Reclamation;

(B) the Secretary of Agriculture with respect to the Forest Service; and

(C) the Secretary of the Army with respect to the United States Army Corps of Engineers.

(11) The term ''solicitation'' means a request by the Secretary concerned for proposals in response to a prospectus.

SEC. 9304. NATURE AND TYPES OF CONCESSION AUTHORIZATIONS.

(a) IN GENERAL.—The Secretary concerned may enter into concession authorizations, as follows:

(1) CONCESSION SERVICES AGREEMENT.—A concession service agreement shall be entered into for all concessions where the Secretary concerned makes a finding that the provision of concession services is in the interest of the Federal Government and issues either a competitive offering for concession services, facilities or activities or a noncompetitive offering for such services, facilities, or activities based on a finding that due to special circumstances it is not in the public interest of the United States to award a concession service agreement on a competitive basis. Where the concessioner develops or uses fixed facilities on Federal lands, the Secretary concerned shall issue a lease.

(2) CONCESSION LICENSE.—Whenever the Secretary concerned makes a finding that public enjoyment of Federal lands would be enhanced through the provision of concession services and that there exists no need to limit the number of concessioners providing such services, he shall consider entering into a concession license with a qualified concessioner. Activities covered under a concession license would typically be one-time, intermittent, or infrequently scheduled. The Secretary concerned may not limit the number of concession licenses issued for the same types of activities in a particular geographic area. The Secretary concerned shall monitor such concession licenses to determine whether issuance of a concession service agreement would be a more appropriate authorization.

(3) LANDS UNDER MULTIPLE JURISDICTIONS.—The Secretaries of the Departments concerned shall designate an agency to be the lead agency concerning concessions which conduct a single operation on lands or waters under the jurisdiction of more than one agency. Unless otherwise agreed to by each such Secretary concerned, the lead agency shall be that agency under whose jurisdiction the concessioner generates the greatest amount of gross receipts. The agency so designated shall issue a single authorization and collect a single fee under paragraphs (1) and (2) for such operation. Such authorization shall provide for use in a manner consistent with the plans and policies for each agency.

(b) LEASES OF AREAS TO STATES AND STATE THIRD PARTY AGREEMENT NOT COVERED.—This part does not apply to leases or licenses of entire areas to States or other political subdivisions or to any third party agreement issued by any such State or political subdivisions with respect to such entire area.

SEC. 9305. COMPETITIVE SELECTION PROCESS FOR CONCESSION SERVICE AGREEMENTS.

(a) AWARD TO BEST PROPOSAL.—The Secretary shall enter into, and reissue, a concession service agreement with the person whom the Secretary determines in accordance with this section submits the best proposal through a competitive process as defined in this section.

(b) SOLICITATION AND PROSPECTUS.—The Secretary concerned shall prepare a solicitation and prospectus which describes the concession service opportunity and shall publish, in appropriate locations, announcements of the availability of the solicitation, prospectus, and the concession service opportunity. The solicitation shall include (but need not be limited to) the following:

(1) A description of the services and facilities to be provided by the concessioner.

(2) The level of capital investment required by the concessioner (if any).

(3) Terms and conditions of the concession service agreement.

(4) Minimum facilities and services to be provided by the Secretary to the concessioner and the public.

(5) Minimum fees to the United States.

(c) FACTORS AND MINIMUM STANDARDS IN DETERMINING BEST PROPOSAL.—The prospectus shall assign a weight to each factor indentified therein related to the importance of such factor in the selection process. Points shall be awarded for each such factor, based on the relative strength of the proposal concerning that factor. In determining the best proposal, the Secretary concerned shall take into consideration (but shall not be limited to) the following, including whether the proposal meets the minimum requirements (if any) of the Secretary for each of the following:

(1) Responsiveness to the prospectus.

(2) Quality of visitor services taking into account the nature of equipment and facilities to be provided.

(3) Experience and performance in providing similar services. This factor shall account for not less than 20 percent of the maximum points available under any prospectus. Where the Secretary concerned determines it to be warranted to provide for a high quality visitor experience, the prospectus for a concession service agreement shall provide greater weight to this factor based on such aspects of the concession service agreement as scope or size, complexity, nature of technical skills required, and site-specific knowledge of the area. The similarity of the qualifying experience outlined in the proposal to the nature of the services required under the concession service agreement and the length of such qualifying experience shall be the basis for awarding points for this factor.

(4) Record of resource protection (as appropriate for services and activities with potential to impact natural or cultural resources).

(5) Financial capability.

(6) Fees to the United States.

(d) SELECTION PROCESS.—The process for selecting the best proposal shall consist of the following:

(1) First, the Secretary concerned shall identify those proposals which meet the minimum standards (if any) for the factors identified under subsection (c).

(2) Second, the Secretary concerned shall evaluate all proposals identified under paragraph (1), considering all factors identified under subsection (c), as well as performance incentives earned under section 9306(c) and renewal penalties incurred under section 9306(d).

(3) Third, the Secretary concerned shall offer the concession service agreement to the best qualified applicant as determined by the evaluation under paragraph (2).

(e) INAPPLICABILITY OF NEPA TO TEMPORARY EXTENSIONS AND SIMILAR REISSUANCE OF CONCESSIONS AGREEMENTS.—The temporary extension of a concession authorization, or reissuance of a concession authorization to provide concession services similar in nature and amount to concession services provided under the previous authorization, is hereby determined to be a categorical exclusion as provided for under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

(f) PROVISION FOR ADDITIONAL RELATED SERVICES.—The Secretary concerned may modify the concession service agreement to allow concessioners to provide services closely related to such agreement, if the Secretary concerned determines that such changes would enhance the safety or enjoyment of visitors and would not unduly restrict the award of future concession service agreements.

SEC. 9306. CONCESSIONER EVALUATIONS.

(a) IN GENERAL.—The Secretary concerned shall develop a program of evaluations of the concessioners operating under a concession service agreement who are providing visitor services in areas under the jurisdiction of the Secretary. The evaluations shall be on an annual basis over the duration of the concession service agreement. In developing the evaluation program, the Secretary concerned shall seek broad public input from concessioners, State agencies, and other interested persons. The evaluation program shall—

(1) include the four program areas of: quality of visitor services provided; resource protection (as applicable); financial performance; and compliance with concession service agreement provisions and pertinent laws and regulations;

(2) define three levels of performance—

(A) good, which shall be defined as a level of performance which exceeds the requirements outlined in the prospectus, but which is attainable;

(B) satisfactory, which shall be defined as meeting the requirements as contained in the prospectus; and

(C) unsatisfactory, which shall be defined as not meeting the requirements contained in the prospectus;

(3) be based on criteria which—

(A) are objective, measurable, and attainable; and

(B) shall include as applicable general standards for all concession operations, industry-specific standards, and standards developed by the Secretary concerned in consultation with the concessioner for each concession service agreement;

(4) be designed in such a manner that the annual evaluation represents the overall performance of the concessioner without undue weight to matters of limited importance; and

(5) take into account factors beyond the control of the concessioner, such as general market and other economic fluctuations, as well as weather and other natural phenomena, so that such factors may not be used as a justification for denial of performance incentives.

(b) ANNUAL EVALUATIONS.—

(1) REQUIREMENTS.—The Secretary concerned shall at least semiannually review the performance of each concessioner and shall assign an overall rating for each concessioner for each year. The procedure for any performance evaluation shall be provided to the concessioner prior to the beginning of any evaluation period. Such procedure shall provide for adequate notification of the concessioner prior to any on-site evaluation and permit a representative of the concessioner to observe the evaluation. The concessioner shall be entitled to a complete explanation of any rating given. If the Secretary's performance evaluation for any year results in an unsatisfactory rating of the concessioner, the Secretary concerned shall so notify the concessioner, in writing. Such notification shall identify the nature of conditions which require corrective action and shall provide the concessioner with a list of corrective actions necessary to meet the standards.

(2) SUSPENSION, REVOCATION, AND TERMINATION OF AUTHORIZATION.—The Secretary concerned may suspend, revoke, or terminate a concession authorization if the concessioner fails to correct the conditions identified by the Secretary within the limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner. The Secretary may immediately suspend or revoke a concession authorization where necessary to protect the public health or welfare.

(c) PERFORMANCE INCENTIVES.—

(1) In evaluating the performance of a concessioner, the incumbent concessioner is entitled to a performance incentive of—

(A) one percent of the maximum points available under such evaluations for performance in each year in which the concessioner's annual performance is rated good, as specified in subsection (a)(2)(A), and

(B) a one-time three year merit term extension upon a finding that a concessioner has been rated as good in each annual performance evaluation through the term of the concession service agreement.

(2) A performance incentive awarded under paragraph (1)(A) may not exceed 10 percent of the maximum points available under such evaluations over the life of the concession service agreement.

(d) RENEWAL PENALTY.—In evaluating the performance of a concessioner, a concessioner shall be penalized one percent of the maximum points available under such evaluation for performance in each year in which the concessioner's annual performance is found to be unsatisfactory.

SEC. 9307. CAPITAL IMPROVEMENTS.

(a) PRIVATE SECTOR DEVELOPMENT.—It is the policy of the United States to encourage the private sector to develop, own, and maintain to the extent possible such public recreation facilities which would enhance public use and enjoyment of Federal lands as are contained in approved plans developed by the Secretary concerned. Under the terms of this part, concessioners may only construct or finance construction under terms of section 9312 such public facilities on Federal lands as are to be used by the concessioner under the terms of their concession service agreement or facilities which are necessary for the concessioner to administer such public facilities on Federal lands.

(b) INVESTMENT INTEREST.—

(1) IN GENERAL.—A concessioner, who is required or authorized under a concession service agreement pursuant to this part to acquire or construct any structure, improvement, or fixture pursuant to such agreement on Federal lands shall have an investment interest therein, to the extent provided by the agreement and this part. Such investment interest shall not be extinguished by the expiration of such agreement. Such investment interest may be assigned, transferred, encumbered or relinquished.

(2) LIMITATION.—Such investment interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use of any improvement in which the concessioner has an investment interest shall be wholly subject to the applicable provisions of the concession service agreement and of laws and regulations relating to the area.

(3) FEDERAL PROPERTY.—The agreement shall specify which new improvements required under terms of the concession service agreement, if any, shall become the property of the Federal Government at the end of the agreement. No concession service agreement shall provide for a concessioner to obtain an investment interest in any building which is wholly owned by the Federal Government. Title to the land on which such structure, improvement, or fixture is placed shall remain in the United States.

(c) SALE OF ASSETS.—If the existing concessioner is not selected as the best qualified applicant at the time of reissuance of a concession service agreement, the Secretary concerned shall require the new concessioner to buy the investment interest of the existing concessioner.

(d) CLOSURE OF CONCESSIONER FACILITIES.—In the event of a decision by the Secretary concerned, that the public interest, by reason of public and safety considerations or for other reasons beyond the control of the concessioner, requires the discontinuation or closure of facilities in which the concessioner has an investment interest, the Secretary shall compensate the concessioner in the amount equal to the value of the investment interest.

(e) DETERMINATION OF VALUE OF INVESTMENT INTEREST.—For purposes of this part, the investment interest of any capital improvement at the end of the concession service agreement period is the actual cost of construction of such capital improvement adjusted from the completion of such construction by changes in the Consumer Price Index (selected in the same manner as such Index is selected under section 9311(c)(2)) less depreciation evidenced by the condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. Such value shall be determined by appraisal and included in any prospectus.

SEC. 9308. DURATION OF CONCESSION AUTHORIZATION.

(a) CONCESSION SERVICE AGREEMENT.—The standard term of a concession service agreement shall be ten years. The Secretary concerned may issue a concession service agreement for less than ten years if he determines (in his discretion) that the average annual gross receipts over the life of the concession service agreement would be less than $100,000. The Secretary concerned may not issue a concession service agreement for less than five years. The Secretary concerned shall issue a concession service agreement for longer than ten years if the Secretary determines (in his discretion) that such longer term is in the public interest or necessary due to the extent of investment and associated financing requirements and to meet the obligations assumed. The term for a concession service agreement may not exceed 30 years.

(b) CONCESSION LICENSE.—The term for a concession license may not exceed two years.

(c) TEMPORARY EXTENSION.—The Secretary may agree to temporary extensions of concession service agreements for up to two years on a noncompetitive basis to avoid interruption of services to the public.

SEC. 9309. RATES AND CHARGES TO THE PUBLIC.

In general, rates and charges to the public shall be set by the concessioner. For concession service agreements only, a concessioner's rates and charges to the public shall be subject to the approval of the Secretary concerned in those instances where the Secretary determines that sufficient competition for such facilities and services does not exist within or in close proximity to the area in which the concessioner operates. In those instances, the concession service agreement shall state that the reasonableness of the concessioner's rates and charges to the public shall be reviewed and approved by the Secretary concerned primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variations, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary concerned. Such review shall be completed within 90 days of receipt of all necessary information, or the requirement for the Secretary's approval shall be waived and such rates and charges as proposed by the concessioner considered to be approved for immediate use.

SEC. 9310. TRANSFERABILITY OF CONCESSION AUTHORIZATIONS.

(a) CONCESSION SERVICE AGREEMENTS.—

(1) APPROVAL REQUIRED.—A concession service agreement is transferable or assignable only upon the approval of the Secretary concerned, which approval may not be unreasonably withheld or delayed. The Secretary may not approve any such transfer or assignment if the Secretary determines that the prospective concessioner is or is likely to be unable to completely satisfy all of the material requirements, terms, and conditions of the agreement or that the terms of the transfer or assignment would preclude providing appropriate facilities or services to the public at reasonable rates.

(2) CONSIDERATION PERIOD.—If the Secretary fails to approve or disapprove a transfer or assignment under paragraph (1) within 90 days after the date on which the Secretary receives all necessary information requested by the Secretary with respect to such transfer, the transfer or assignment shall be deemed approved.

(3) NO MODIFICATION OF TERMS AND CONDITIONS.—The terms and conditions of the concessions service agreement shall not be subject to modification by reason of any transfer or assignment under this section.

(4) PERFORMANCE INCENTIVE.—Upon approval of the sale or transfer, the prospective concessioner shall be entitled to the benefit of performance incentives earned by the previous concessioner.

(b) CONCESSION LICENSE.—A concession license may not be transferred.

SEC. 9311. FEES CHARGED BY THE UNITED STATES FOR CONCESSION AUTHORIZATIONS.

(a) IN GENERAL.—The Secretary concerned shall charge a fee for the privilege of providing concession services pursuant to this part. The fee for any concession service agreement may include any of the following:

(1) An annual cash payment for the privilege of providing concession services.

(2) The amount required for capital improvements required pursuant to section 9307(a).

(3) Fees for rental or lease of Government-owned facilities or lands occupied by the concessioner.

(4) Expenditures for maintenance of or improvements to Government-owned facilities occupied by the concessioner.

(b) ESTABLISHMENT OF AMOUNT.—

(1) MINIMUM ACCEPTABLE FEE.—The Secretary concerned shall establish a minimum fee for each applicable category specified in paragraphs (1) through (4) of subsection (a) which is acceptable to the Secretary under this section and shall include the minimum fee in the prospectus under section 9305. This fee shall be based on historical data, where available, as well as industry-specific and other market data available to the Secretary concerned.

(2) FINAL FEE.—Except as provided by paragraph (3), the final fee shall be the amount bid by the selected applicant under section 9305.

(3) SUBSTANTIALLY SIMILAR SERVICES IN A SPECIFIC GEOGRAPHIC AREA.—Where the Secretary concerned simultaneously offers authorizations for more than one river runner, outfitter, or guide concession operation to provide substantially similar services in a defined geographic area, the concession fee for all such concessioners shall be specified by the Secretary concerned in the prospectus. The Secretary concerned shall base the fee on historical data, where available, as well as on industry-specific and other market data available to the Secretary concerned or may establish a charge per user day.

(c) ADJUSTMENT OF FEES.—

(1) IN GENERAL.—The amount of any fee for the term of the concession service agreement

shall be set at the beginning of the concession authorization and may only be modified on the basis of inflation, if the annual payment is not determined by a percentage of adjusted gross receipts (as measured by changes in the Consumer Price Index), to reflect substantial changes from the conditions specified in the prospectus, or in the event of an unforeseen disaster.

(2) CPI.—For the purposes of adjustments for inflation under paragraph (1), the Federal agencies shall select a Consumer Price Index published by the Bureau of Labor Statistics and shall use such index in a consistent manner.

(d) CONCESSION LICENSE FEE.—The fee for a concession license shall at least cover the program administrative costs and may not be changed over the term of the license.

SEC. 9312. DISPOSITION OF FEES.

(a) CONCESSION IMPROVEMENT ACCOUNT.—

(1) IN GENERAL.—The Secretary concerned shall, whenever the concession service agreement requires or authorizes the concessioner to make capital improvements or occupy Government-owned facilities, require the concessioner to establish a concession improvement account. The concessioner shall deposit into this account—

(A) all funds for capital improvements as specified in the concession service agreement;

(B) all funds for maintenance of or improvements to Government-owned facilities occupied by the concessioner; and

(C) all amounts received from the Secretary concerned pursuant to subsection (b).

(2) TERMS AND CONDITIONS.—The account shall be maintained by the concessioner in an interest bearing account in a Federally insured financial institution. The concessioner shall maintain the account separately from any other funds or accounts and shall not commingle the monies in the account with any other moneys. The Secretary concerned may establish such other terms, conditions, or requirements as the Secretary determines to be necessary to ensure the financial integrity of the account.

(3) DISBURSEMENTS.—The concessioner shall make disbursements from the account for improvements and other activities, only as specified in the concession service agreement and subsection (b)(2)(C).

(4) RECORDS.—The concessioner shall maintain proper records for all disbursements made from the account. Such records shall include (but not be limited to) invoices, bank statements, canceled checks, and such other information as the Secretary concerned determines to be necessary.

(5) ANNUAL FINANCIAL STATEMENT.—The concessioner shall annually submit to the Secretary concerned a statement reflecting total activity in the account for the preceding financial year. The statement shall reflect monthly deposits, expenditures by project, interest earned, and such other information as the Secretary concerned requires.

(6) TRANSFER OF REMAINING BALANCE.—Upon the termination of a concession authorization, or upon the transfer of a concession service agreement, any remaining balance in the account shall be transferred by the concessioner to the successor concessioner, to be used solely as set forth in this subsection. In the event there is no successor concessioner, the account balance shall be deposited in the Treasury as miscellaneous receipts.

(b) AMOUNTS RECEIVED RELATING TO PRIVILEGE OF PROVIDING CONCESSION SERVICES AND RENTAL OF GOVERNMENT-OWNED FACILITIES.—

(1) DEPOSIT INTO TREASURY.—The Secretary concerned shall deposit into the Treasury of the United States as miscellaneous receipts amounts received for a fiscal year for the privilege of providing concession services and the rental of Government-owned facilities up to the amount specified in the table in paragraph (3) for the National Park Service for that fiscal year. For the other agencies covered under this part, the Secretary concerned shall develop a schedule of anticipated receipts to be deposited to the Treasury and submit such schedule to the appropriate Congressional committees within 18 months of the date of enactment of this Act. Nothing in this part shall be construed to modify any provision of law relating to sharing of Federal receipts with any other level of Government.

(2) DEPOSIT INTO CONCESSION IMPROVEMENT ACCOUNTS.—(A) Amounts received by the Secretary concerned for a fiscal year for the privilege of providing concession services and the use of Government-owned facilities which exceed the amount specified in the table in paragraph (3) for that fiscal year shall be available for deposit in the succeeding fiscal year into concession improvement accounts.

(B) Of the amounts available for deposit into concession improvement accounts, the Secretary shall make available to each concessioner a percentage of such excess amounts which bears the same ratio as the amount paid by the concessioner to the Secretary concerned for a fiscal year for the privilege of providing concession services and the use of Government-owned facilities bears to the total amount paid to the Secretary concerned by all concessioners for that fiscal year for such privilege on an agency-wide basis.

(C) Amounts made available to a concessioner under this paragraph may be used only for expenditures on visitor services and facilities at the area at which the funds were generated.

(3) DEPOSIT INTO CONCESSION IMPROVEMENT ACCOUNTS.—The table referred to in paragraph (2), expressed by fiscal year on an agency basis, is as follows:

National Park Service

Fiscal year:	Amount:
1997	$15,800,000
1998	$21,100,000
1999	$26,700,000
2000	$32,300,000
2001	$38,200,000
2002	$44,400,000.

(c) AUDIT REQUIREMENT.—Beginning with fiscal year 1998, the Inspector General of the Department concerned shall conduct a biennial audit of concession fees generated pursuant to this part. The Inspector General shall make a determination as to whether concession fees are being collected and expended in accordance with this part and shall submit copies of each audit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 9313. DISPUTE RESOLUTION.

(a) BOARD OF CONTRACT APPEALS.—The Board of Contract Appeals within each Department shall adjudicate disputes between the Federal Government and concessioners arising under this part, including disputes regarding the revocation, suspension, or termination of a concession authorization, transfers of concession service agreements, and performance evaluations of concessions. Such disputes shall be subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.). The expiration of a concession authorization shall not be subject to appeal to the Board.

(b) ADMINISTRATIVE REVIEW.—Appeals of decisions may be taken to the Board of Contract Appeals after one level of review of decisions made within an agency.

(c) EXPEDITED PROCEDURE.—Appeals of decisions to suspend, revoke, or terminate a concession authorization shall be considered under an expedited procedure, as provided by the Secretary concerned by regulation.

(d) JUDICIAL REVIEW.—

(1) IN GENERAL.—A person may seek judicial review of decisions made by the Board. Such review shall be conducted by the court with jurisdiction on a de novo basis.

(2) CONCESSION SERVICE AGREEMENTS.—Judicial review of decisions rendered by the Board regarding concession service agreements shall be to the United States Court of Federal Claims in accordance with section 1491 of title 28, United States Code (commonly referred to as the ''Tucker Act'').

(3) CONCESSION LICENSES.—Judicial review of decisions rendered by the Board regarding concession licenses shall be to the appropriate Federal District Court.

(d) INAPPLICABILITY OF CERTAIN PROVISIONS.—Disputes arising under this part shall not be subject to the jurisdiction of the General Accounting Office to review bid protests under the Competition in Contracting Act of 1984.

SEC. 9314. RECORDKEEPING.

(a) MAINTENANCE AND ACCESS.—Each concessioner shall keep such records as the Secretary concerned may prescribe to enable the Secretary to determine that all terms of the concession authorization have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access at reasonable times and locations to such records and to other books, documents, and papers of the concessioner pertinent to the concession authorization and all the terms and conditions thereof.

(b) ACCESS BY COMPTROLLER GENERAL.—The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five calendar years after the close of the business year of each concessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner related to the concession authorization involved.

SEC. 9315. APPLICATION OF GENERAL GOVERNMENTAL ACQUISITION REQUIREMENTS.

The following laws and regulations shall not apply to concession service agreements and concession licenses under this part:

(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251–266).

(2) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(3) The Federal Acquisition Streamlining Act of 1994 (Public Law 103–355).

(4) The Brooks Automatic Data Processing Act (40 U.S.C. 759).

(5) Chapters 137 and 141 of title 10, United States Code.

(6) The Federal Acquisition Regulation and any laws not listed in paragraphs (1) through (5) providing authority to promulgate regulations in the Federal Acquisition Regulation.

(7) The Act of June 20, 1936 (20 U.S.C. 107; commonly referred to as the ''Randolph-Sheppard Act'') and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.).

SEC. 9316. RULES OF CONSTRUCTION.

Concession programs of an agency on Federal lands and waters subject to this part shall be fully consistent with the agency's mission and laws applicable to the agency. Nothing in this part shall be construed as limiting or restricting any right, title, or interest of the United States in any land or resources.

SEC. 9317. REGULATIONS.

(a) IN GENERAL.—Pursuant to enactment of this part, no new concession authorization may be issued, nor may any existing concession authorization remain in effect after two years after the date of the enactment of this Act, unless regulations fully implementing this part are in effect. During such two-year period, the Secretary may only extend an existing concession authorization for a period ending at the end of such two-year period. Such extensions shall be made in accordance with the applicable provisions of law specified in section 9318, as such provisions were in effect on the day before the date of the enactment of this Act. The Secretary of the Interior, Secretary of Agriculture, and Secretary of the Army shall develop a single set of regulations which specify a uniform set of recordkeeping requirements for all concessioners with respect to implementation of this part.

(b) QUALIFICATIONS OF AGENCY PERSONNEL ASSIGNED CONCESSION MANAGEMENT DUTIES.—The Secretary, by regulation under subsection (a) and taking into account the provisions of this part, shall specify the minimum training and qualifications required for agency personnel assigned predominantly to concession management duties, including (but not limited to) competency in business management, public health and safety, and the delivery of quality customer services.

SEC. 9318. RELATIONSHIP TO OTHER EXISTING LAWS.

(a) REPEALS.—

(1) The Act entitled ''An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes'' (16 U.S.C. 20–20g) approved October 9, 1965, is repealed.

(2) The last paragraph under the heading ''FOREST SERVICE'' in the Act of March 4, 1915 (38 Stat. 1101), as amended by the Act of July 28, 1956 (chap. 771; 70 Stat. 708) (16 U.S.C. 497), is repealed.

(3) Section 7 of the Act of April 24, 1950 (16 U.S.C. 580d) is repealed.

(b) SUPERSEDED PROVISIONS.—The provisions of this part shall supersede the provisions of the following Acts as they pertain to concessions management:

(1) The Federal Land Policy and Management Act of 1976 (Oct. 21, 1976).

(2) Public Law 87–714 (16 U.S.C. 460k et seq.; commonly known as the ''Refuge Recreation Act'').

(3) The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd).

(c) CONFORMING AMENDMENT.—The fourth sentence of section 3 of the Act of August 25, 1916 (16 U.S.C. 3; 39 Stat. 535), is amended by striking all through ''no natural'' and inserting in lieu thereof ''No natural''.

(d) MODIFIED PROVISIONS.—The second sentence of section 4 of the Act entitled ''An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes'' (16 U.S.C. 460d) is amended by inserting '', except for commercial concessions purposes'' the first place it appears after ''public interest''.

(e) SAVINGS.—

(1) IN GENERAL.—The repeal of any provision, the superseding of any provision, and the amendment of any provision, of an Act referred to in subsections (a), (b), or (c) shall not affect the validity of any authorizations entered into under any such Act. The provisions of this part shall apply to any such authorizations, except to the extent such provisions are inconsistent with the express terms and conditions of such authorizations.

(2) RIGHT OF RENEWAL.—The right of renewal explicitly provided for by any concession contract under any such provision shall be preserved for a single renewal of a contract following the enactment of, or concession authorization under, this part.

(3) VALUE OF CAPITAL IMPROVEMENTS OR POSSESSORY INTEREST.—Nothing in this part shall be construed to change the value of existing capital improvements or possessory interest as identified in concession contracts entered into before the enactment of this Act.

(4) ANILCA.—Nothing in this part shall be construed to amend, supersede or otherwise affect any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.

(5) SKI AREA PERMITS.—No provision of this part shall apply to any ski area permittee operating on lands administered by the Forest Service.

(6) PROCEDURES FOR CONSIDERING EXISTING CONCESSIONERS IN REISSUANCE OF CONTRACTS.—In the case of any concession contract which has expired prior to the date of the enactment of this Act, or within five years after the date of the enactment of this Act, the incumbent concessioner shall be entitled to a one-time bonus of five percent of the maximum points available in the reissuance of a previous concession authorization. For any concession contract entered into prior to the date of enactment of this Act, which is projected to terminate five years or later after the enactment of this Act, any concessioner shall be entitled to a performance incentive as outlined in this part. The concessioner shall be entitled to an evaluation for the purposes of section 9306 of good for each year in which the Secretary concerned does not complete an evaluation as provided for in this part.

PART 2—NATIONAL FOREST SKI AREAS

SEC. 9321. PRIVATIZATION OF FOREST SERVICE SKI AREAS.

(a) AUTHORIZATION TO SELL.—

(1) IN GENERAL.—Not later than five years after the date of enactment of this part, the Secretary of Agriculture shall offer to sell not less than 40 ski areas to the qualifying ski area operator. Any such sale shall provide for continuation of public access for diverse recreational uses. The Secretary shall offer such areas for sale only after consultation with State and local governments. Any such sale shall be at fair market value and, subject to valid existing rights, shall transfer all right, title, and interest of the United States in and to the lands. In any such sale, the Secretary shall establish the minimum acceptable bid based on the appraised fair market value of such lands.

(2) QUALIFYING LANDS.—For the purposes of subsection (a), lands are qualifying concession lands if such lands are—

(A) subject to a lease on the date of the enactment of this Act for use as a ski area with improvements with a fair market value greater than $2,000,000; and

(B) located either adjacent to the boundary of the Federal lands or adjacent to other significant private inholdings.

(b) APPRAISAL.—

(1) IN GENERAL.—The Secretary shall provide for an independent appraisal of the lands and interests therein to be transferred pursuant to subsection (a). The appraiser shall—

(A) utilize nationally recognized appraisal standards, including to the extent appropriate the uniform appraisal standards for Federal land acquisition; and

(B) not include the value of any improvement placed on the lands by the concessioner.

(2) APPRAISAL REPORT.—The appraiser shall submit a detailed report to the Secretary.

(c) ADDITIONAL LANDS.—In addition to the national forest ski area, the Secretary may transfer by sale or exchange additional National Forest System lands for the purpose of adding such lands to and operating them as part of a ski area sold under subsection (a). The transfer of additional lands under this subsection shall be in accordance with this part and the laws generally applicable to the National Forest System.

(d) USE OF PROCEEDS BY THE APPROPRIATE SECRETARY.—The Secretary may retain 50 percent of the funds generated through sales under this section to acquire other high priority lands identified for acquisition in any forest land and resource management plan. The remaining 50 percent of such amount shall be deposited in the Treasury as miscellaneous receipts.

SEC. 9322. SKI AREA PERMIT FEES AND WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

The National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) is amended by adding at the end the following new sections:

''SEC. 4. SKI AREA PERMIT FEES.

''(a) SKI AREA PERMIT FEE.—

''(1) IN GENERAL.—Except as provided by paragraph (2), after the date of the enactment of this section, the fee for all ski area permits on National Forest System lands shall be calculated, charged, and paid only as set forth in subsection (b).

''(2) EXCEPTION.—Paragraph (1) does not apply to any ski area where the existing permit in effect on the date of enactment of this section specifies a different method to calculate the fee. In any such situation the terms of such permit shall prevail, unless the permit holder notifies the Forest Service that the permit holder agrees to adopt the method of fee calculation specified in this section. The Forest Service should encourage such permit holders to consider adopting the new method of fee calculation in order to reduce its administrative costs.

''(b) METHOD OF CALCULATION.—

''(1) DETERMINATION OF ADJUSTED GROSS REVENUE SUBJECT TO FEE.—The Secretary of Agriculture shall calculate the ski area permit fee to be charged a ski area permittee by first determining the permittee's adjusted gross revenue to be subject to the permit fee. The permittee's adjusted gross revenue is equal to the sum of the following:

''(A) The permittee's gross revenues from alpine lift ticket and alpine season pass sales plus revenue from alpine ski school operations, with such total multiplied by the permittee's slope transport feet percentage on National Forest System lands.

''(B) The permittee's gross revenues from nordic ski use pass sales and nordic ski school operations, with such total multiplied by the permittee's percentage of nordic trails on National Forest System lands.

''(C) The permittee's gross revenues from ancillary facilities physically located on National Forest System lands, including all permittee or subpermittee lodging, food service, rental shops, parking, and other ancillary operations.

''(2) DETERMINATION OF SKI AREA PERMIT FEE.—The Secretary shall determine the ski area permit fee to be charged a ski area permittee by multiplying adjusted gross revenue determined under paragraph (1) for the permittee by the following percentages for each revenue bracket and adding the total for each revenue bracket:

''(A) 1.5 percent of all adjusted gross revenue below $3,000,000.

''(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000.

''(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000.

''(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

''(3) SLOPE TRANSPORT FEET PERCENTAGE.—In cases where ski areas are only partially

located on National Forest System lands, the slope transport feet percentage on national forest land referred to in paragraph (1) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992.

''(4) ANNUAL ADJUSTMENT OF ADJUSTED GROSS REVENUE.—In order to insure that the ski area permit fee set forth in this subsection remains fair and equitable to both the United States and ski area permittees, the Secretary shall adjust, on an annual basis, the adjusted gross revenue figures for each revenue bracket in subparagraphs (A) through (D) of paragraph (2) by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year.

''(c) MINIMUM FEE.—In cases where an area of National Forest System land is under a ski area permit but the permittee does not have revenue or sales qualifying for fee payment pursuant to subsection (a), the permittee shall pay an annual minimum fee of $2 for each acre of National Forest System land under permit. Rental fees imposed under this subsection shall be paid at the time specified in subsection (d).

''(d) TIME FOR PAYMENT.—The fee set forth in subsection (b) shall be due on June 1 of each year and shall be paid or prepaid by the permittee on a monthly, quarterly, annual, or other schedule as determined appropriate by the Secretary in consultation with the permittee. It is the intention of Congress that unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to the enactment of this section. To simplify bookkeeping and fee calculation burdens on the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual fee calculations brackets and rates) to be utilized for fee calculation and submitted with the fee payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, United States Forest Service.

''(e) DEFINITIONS.—To simplify bookkeeping and administrative burdens on ski area permittees and the Forest Service, as used in this section, the terms 'revenue' and 'sales' mean actual income from sales. Such terms do not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities, discounts, complimentary lift tickets, or other goods or services (except for bartered goods) for which the permittee does not receive money.

''(f) EFFECTIVE DATE FOR FEES.—The ski area permit fees as provided under this section shall become effective on July 1, 1996, and cover receipts retroactive to July 1, 1995. If a ski area permittee has paid fees for the 12-month period ending on June 30, 1996, under the graduated rate fee system formula in effect prior to the date of the enactment of this section, such fees shall be credited toward the new ski area permit fee due for that period under this section.

''(g) REPORT ON FAIR MARKET VALUE.—No later than five years after the date of enactment of this section and every 10 years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committees of Agriculture and Resources of the United States House of Representatives a report analyzing whether the ski area permit fee system legislated by this section is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications in the system.

''(h) TRANSITION PERIOD.—Where the new fee provided for in this section results in an increase in permit fee greater than one percent of the permittee's adjusted gross revenue (as defined in subsection (b)(1)), the new fee shall be phased in over a three year period in a manner providing for increases of approximately equal increments.

''(i) APPLICABILITY OF NEPA TO REISSUANCE OF SKI AREA PERMITS.—The reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit is hereby determined to be a categorical exclusion as provided for under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

''SEC. 5. WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

''Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on, or after the date of the enactment of this section pursuant to the authority of the Act of March 4, 1915 (16 U.S.C. 497), the Act of June 4, 1897 (16 U.S.C. 473 et seq.), or section 3 of this Act are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal of the permit. Such withdrawal shall be canceled automatically upon expiration or other termination of the permit unless, at the request of the Secretary of Agriculture, the Secretary of the Interior determines to continue the withdrawal. Upon cancellation of the withdrawal, the land shall be automatically restored to all appropriation not otherwise restricted under the public land laws.''.

PART 3—DOMESTIC LIVESTOCK GRAZING

SEC. 9331. APPLICABLE REGULATIONS.

(a) BLM LANDS.—Except as otherwise provided by this part, grazing of domestic livestock on lands administered by the Bureau of Land Management shall be in accordance with part 1780 and part 4100 of title 43, Code of Federal Regulations, as in effect on January 1, 1995.

(b) FOREST SERVICE LANDS.—Except as otherwise provided by this part, grazing of domestic livestock on lands administered by the Forest Service shall, to the extent possible, be in accordance with regulations, which the Secretary of Agriculture shall promulgate, which are substantially similar to the regulations referred to in subsection (a). Regulations promulgated under this subsection may differ from the regulations referred to in subsection (a) to the extent necessary to conform to the laws governing the National Forest System (other than this part).

(c) FEDERAL LANDS.—For the purposes of this part, the term ''Federal lands'' means lands administered by the Bureau of Land Management and lands administered by the Forest Service.

SEC. 9332. FEES AND CHARGES.

(a) BASIC FEE.—The basic fee for each animal unit month in a grazing fee year to be determined by the Bureau of Land Management and the Forest Service shall be equal to the 3-year average of the total gross value of production for beef cattle, as compiled by the Economic Research Service of the Department of Agriculture in accordance with subsection (b) on the basis of economic data published by the Service in the Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops & Livestock and Dairy for the 3 years preceding the grazing fee year, multiplied by the 10 year average of the United States Treasury Securities 6-month bill ''new issue'' rate and divided by 12.

(b) CRITERIA.—The Economic Research Service of the Department of Agriculture shall continue to compile the gross production value of production of beef cattle as reported in a dollar per bred cow basis in the ''U.S. Cow-Calf Production Cash Costs and Returns''.

(c) SURCHARGE.—

(1) IN GENERAL.—A surcharge shall be added to the grazing fee billings for authorized grazing of livestock owned by persons other than the permittee or lessee except where—

(A) such use is made by livestock owned by a spouse, child, or grandchild or their respective spouse of the permittee and lessee; or

(B) the permittee or lessee is unable to make full grazing use, as authorized by a grazing permit or lease, due to the infirmed condition or death of the permittee or lessee.

(2) TREATMENT AS ADDITIONAL FEE.—The surcharge shall be over and above any other fees that may be charged for using public land forage.

(3) PRIOR PAYMENT REQUIRED.—Surcharges shall be paid prior to grazing use.

(4) AMOUNT.—The surcharge for authorized pasturing of livestock owned by persons other than the permittee or lessee shall be equal to 25 percent of the difference between the current year's Federal grazing fee and the prior year's private grazing land lease rate per AUM for the appropriate State as compiled by the National Agricultural Statistics Service.

(5) IN GENERAL.—The Bureau of Land Management and the Forest Service shall make a determination under subsection (a) based on the following information gathered by the National Agriculture Statistics Service of the Department of Agriculture with respect to the largest single grazing lease of each grazing operator (in terms of dollars):

(A) Whether the operator charged—

(i) per acre;

(ii) per head per month;

(iii) per pound of gain;

(iv) per hundredweight of gain; or

(v) by another measure, and the rate charged.

(B)(i) The estimated average pounds gained per season for the grazing lease.

(ii) The total dollar amount estimated to be realized from the grazing lease.

(iii) Grazing lease acreage.

(iv) The State and county where the grazing lease is located.

(C) The classes of livestock grazed.

(D) The term of the grazing lease.

(E)(i) Whether grazing lease payments are paid if no grazing occurred.

(ii) Whether the grazing lease contains a take or pay provision.

(F) Additional information on whether the following are provided by the landlord on a 5-year basis:

(i) Fencing maintenance.

(ii) Animal management and oversight.

(iii) Water maintenance.

(iv) Salt and minerals.

(v) Other service (specified).

(vi) No services.

(vii) Hunting.

(viii) Fishing.

(ix) Other (specified).

(x) None.

(6) PRIVATE NATIVE RANGELAND.—For the purpose of determining rates for grazing leases of private native rangeland, rates for irrigated pasture, crop aftermath, and dryland winter wheat shall be excluded.

SEC. 9333. ANIMAL UNIT MONTH.

(a) DEFINITION OF ANIMAL UNIT MONTH.—The term ''animal unit month'' means 1 month's use and occupancy of range by—

(1) 1 cow, bull, steer, heifer, horse, burro, or mule, 7 sheep, or 7 goats, each of which is 6 months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal land; and

(3) any such animal that will become 12 months of age during the period of use authorized under a grazing permit or grazing lease.

(b) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than 6 months of age on the date on which the animal begins grazing on Federal land and is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming 12 months of age.

SEC. 9334. TERM OF GRAZING PERMITS OR GRAZING LEASES.

A grazing permit or grazing lease shall be issued for a term of 15 years unless—

(1) the land is pending disposal;

(2) the land will be devoted to a public purpose that precludes grazing prior to the end of 15 years; or

(3) the Secretary determines that it would be in the best interest of sound land management to specify a shorter term, if the decision to specify a shorter term is supported by appropriate and accepted resource analysis and evaluation.

SEC. 9335. CONFORMANCE WITH LAND USE PLAN.

Livestock grazing activities and management actions approved by the Secretary of the Interior or the Secretary of Agriculture, as the case may be—

(1) may include any such activities as are not clearly prohibited by a land use plan; and

(2) shall not require any consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in addition to the studies supporting the land use plan.

SEC. 9336. EFFECTIVE DATE.

This part shall apply to grazing on Federal lands on and after the date of the enactment of this Act.

PART 4—REGIONAL DISPOSAL FACILITY OF SOUTHWESTERN LOW LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

SEC. 9341. CONVEYANCE OF PROPERTY.

(a) CONVEYANCE.—Upon the tendering of $500,000 on behalf of the State of California and the release of the United States by the State of California from any liability for claims relating to the property described in subsection (b), all right, title and interest of the United States in and to said lands and improvements thereon are conveyed to the Department of Health Services of the State of California: *Provided,* That the property shall revert to the United States if the property is not used as a low-level radioactive waste disposal facility.

(b) DESCRIPTION.—The lands conveyed are those depicted on a map designated USGS 7.5 minute quadrangle, west of Flattop Mtn, CA 1984, entitled ''Location Map for Ward Valley Site'', located in San Bernardino Meridian, Township 9 North, Range 19 East.

(c) TITLE.—The Secretary of the Interior shall issue evidence of title pursuant to this Act notwithstanding any other provision of law. The Southwestern Low-Level Radioactive Waste Disposal Compact's Ward Valley regional disposal facility and transfer of the land are in compliance with any applicable provisions of section 7 of Endangered Species Act of 1973 (16 U.S.C. 1536) and the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(d) DEPOSIT OF FUNDS.—Sums received pursuant to subsection (a) shall be deposited as miscellaneous receipts in the Treasury of the United States.

(e) EXPIRATION OF AUTHORITY.—This authority expires October 1, 2010.

SEC. 9342. CONVEYANCE OF EASEMENTS.

Concurrent with the conveyance property described in section 9341(b) to the Department of Health Services of the State of California, all necessary easements for utilities and ingress and egress to said lands described in section 9341(b) of this Act and the right to improve those easements, are also conveyed to the Department of Health Services of the State of California: *Provided,* That the Department of Health Services right-of-way easements revert to the United States if the lands referenced in section 9341 are not licensed and used as a low-level radioactive waste disposal facility.

Subtitle D—Territories

PART 1—COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

SEC. 9401. TERMINATION OF ANNUAL DIRECT GRANT ASSISTANCE.

(a) TERMINATION.—Pursuant to section 704(d) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), the annual payments under section 702 of the Covenant shall terminate as of September 30, 1995.

(b) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 (Public Law 94–241; 48 U.S.C. 1681 note), as amended, are repealed, effective October 1, 1995.

(c) REMOVAL OF AUTHORITY TO OBLIGATE CERTAIN FUNDS.—Amounts appropriated under title VII of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and under sections 3 and 4 of Public Law 94–241 (48 U.S.C. 1681), which are not obligated as of the date of the enactment of this Act may not be obligated after such date.

(d) CONFORMING AMENDMENTS.—Section 5 of such Act (48 U.S.C. 1681 note) is amended—

(1) by striking out ''agreement identified in section 3 of this Act'' and inserting in lieu thereof ''Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed July 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands''; and

(2) by striking out ''Committee on Interior and Insular Affairs'' and inserting in lieu thereof ''Committee on Resources''.

PART 2—TERRITORIAL ADMINISTRATIVE CESSATION ACT

SEC. 9421. SHORT TITLE.

This part may be cited as the ''Territorial Administrative Cessation Act''.

SEC. 9422. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) each of the four political subdivisions of the United Nations Trust Territory of the Pacific Islands, known as the Japanese Mandated Islands, have successfully entered into distinct self-governing entities, thereby culminating in the final termination of the Trusteeship and the end of the trusteeship responsibilities of the United States as administering authority of the Trust Territory on October 1, 1994;

(2) the United States territories have developed progressively increased local self-government over the past five decades;

(3) the territories predominantly deal directly with Federal agencies and departments, as a State would;

(4) the administering responsibilities of the Department of the Interior with respect to the insular areas has declined substantially during the past five decades; and

(5) Federal-territorial relations can be enhanced and Federal fiscal conditions improved by the elimination of unnecessary Federal bureaucracy.

SEC. 9423. ELIMINATION OF OFFICE OF TERRITORIAL AND INTERNATIONAL AFFAIRS.

(a) IN GENERAL.—The Office of Territorial and International Affairs of the Department of the Interior, established pursuant to the Order of the Secretary of the Interior 3046, of February 14, 1980, as amended, is hereby abolished.

(b) TERMINATION OF POSITION OF ASSISTANT SECRETARY.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of the Interior (6)'' and inserting ''Assistant Secretaries of the Interior (5)''.

(c) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (b) shall take effect on the first day of the first fiscal year that begins after the date of the enactment of this Act.

SEC. 9424. CERTAIN ACTIVITIES NOT FUNDED.

Amounts may not be made available for the following program activities for assistance to territories for fiscal years beginning after September 30, 1995, as identified under the appropriations account numbered 14–0412–0–1–808:

(1) technical assistance, item 00.12;

(2) maintenance assistance, item 00.14;

(3) disaster fund, item 00.17; and

(4) insular management controls, item 00.19.

Subtitle E—Minerals

PART 1—HARDROCK MINING

SEC. 9501. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares that—

(1) a secure and reliable supply of locatable minerals is essential to the industrial base of the United States, national security, and balance of trade;

(2) many of the deposits of locatable minerals that may be commercially developed are on Federal lands as that term is defined in this Act, and are difficult and expensive to discover, mine, extract and process;

(3) the national need for locatable minerals will continue to expand, and without a strong mining industry the demand for the minerals will exceed domestic sources of supply;

(4) mining of locatable minerals is an extremely high-risk, capital-intensive endeavor, which, to attract necessary investment, requires certainty and predictability in access to Federal lands in establishment of mining titles, and in the rights of owners of mining claims or sites to develop minerals;

(5) the national interest is to foster and encourage private enterprise in the development of a domestic minerals industry to maintain and create high-paying jobs and the various Federal, State, and local taxes paid by the mining industry in the United States;

(6) changes in the general mining laws of the United States to provide more direct economic return to the United States and greater protection of public resources are desirable, so long as these changes do not act as a disincentive to development of minerals, adversely affect employment in the mining industry or in industries that provide goods and services required for mining activities, interfere with a secure and reliable domestic supply of minerals, or adversely affect the balance of trade of the United States; and

(7) mining claims, mill sites and tunnel sites located under the general mining laws are property interests, and any law or regulation that substantially impairs existing property rights may expose the Federal Government to takings claims under the fifth

amendment to the United States Constitution.

(b) PURPOSE.—It is the purpose of this subtitle to—

(1) affirm and maintain the policy established in section 2 of the Mining and Minerals Policy Act of 1970;

(2) promote exploration for and the development of a secure and reliable domestic source of locatable minerals;

(3) provide for increased Federal revenue from the location and production of locatable minerals from Federal lands through patent payments and royalties; and

(4) recognize that unpatented mining claims, mill sites and tunnel sites are property rights in the fullest sense and avoid, to the greatest extent possible, claims of takings of existing property rights under the general mining laws that could require compensation under the fifth amendment to the United States Constitution.

SEC. 9502. PATENTS UNDER THE GENERAL MINING LAW.

(a) IN GENERAL.—Any patent issued by the United States under the general mining laws after the date of the enactment of this Act for any interest in land covered by a mining claim or site under such laws shall be issued only—

(1) upon payment by the owner of the mining claim or site of the fair market value for the interest in the land owned by the United States exclusive of, and without regard to, the mineral deposits in the land or the use of such land for mineral activities unless the requirements of subsection (b) are met, and

(2) subject to a reservation by the United States of the royalty provided in section 9503(a), unless the requirements in subsection (b) are met.

(b) PATENT TRANSITION.—(1) Subsection (a) shall not apply to any mining claim or site if—

(A) the claimant establishes that the claim or site constituted a valid mining claim as of the date of the enactment of this Act; and

(B) the claimant has filed a patent application or mineral survey application prior to the date of the enactment of this Act, or files such an application with the Bureau of Land Management before the date 2 years after the date of the enactment of this Act. A patent application or mineral survey application referred to in this subparagraph shall be deemed timely, notwithstanding that the application may be corrected or supplemented and resubmitted thereafter.

(2) During the 2-year period in paragraph (1)(B), or while there is pending a mineral survey or patent application to which this subsection applies, an owner of the mining claim or site may continue work on a mining claim or site directed toward establishment and confirmation of entitlement to a patent, and may amend the application as necessary.

(3) Where access to any mining claim or site has been denied or impeded by the action or inaction of any Federal official, agency, or court during all or part of the 5-year period preceding the date of enactment of this Act, including any mining claim or site within the area described in section 106 of Public Law 103–433, and the mining claim or site may require further exploration or development in order for the claimant to file a patent application or a mineral survey application and otherwise meet the requirements of paragraph (1), the claimant may, within 1 year after the date of enactment of this Act, submit a certified written statement to the Secretary describing the access denial or impediment, and shall then have a period of 10 years from the date of enactment of this Act or the termination of such access denial or impediment, whichever occurs first, to conduct such mineral exploration or development activities, file a patent application or mineral survey application, and otherwise meet the requirements of paragraph (1).

(c) PAYMENT PLAN.—(1) Any owner grossing less than $500,000 annually shall qualify for a payment plan. Upon completion of the patent process, the owner of the mining claim may purchase the surface estate under the following conditions:

(A) Payment to be amortized over 5 years with 5 equal annual payments, including principal and interest.

(B) Interest shall be calculated per annum at a rate of 2 percent over the ''Treasury Current Value of Funds Rate'' on the date of execution of the payment plan agreement.

(2) The purchaser shall be notified by certified mail after 60 days of delinquent payments and have 90 days from receipt of notification to correct the delinquency. Repossession shall be by and under the laws of repossession, foreclosure, and replevin of the State wherein the land is situated.

(d) REPEAL OF PATENTING MORATORIUM; PROCESSING OF PATENT APPLICATIONS.—Sections ___ and ___ of Public Law ___ are hereby repealed. The Secretary of the Interior shall diligently process all patent applications under the general mining laws pending on the date of enactment and shall make determinations for all such applications regarding patent issuance within 2 years.

SEC. 9503. ROYALTY UNDER THE GENERAL MINING LAW.

(a) IN GENERAL.—The production and sale of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 9502(b) applies) or any mining claim patented under section 9502(a) shall be subject to a royalty of 3.5 percent on the net proceeds from such production mined and sold from such claim.

(b) ROYALTY EXCLUSION.—(1) The royalty payable under this section shall be waived for any person or corporation with annual net proceeds from mineral production subject to subsection (a) of less than $50,000.

(2) Where mining operations subject to this section are conducted in 2 or more places by 1 person or corporation, the operations shall be considered a single operation the aggregate net proceeds from which shall be subject to the $50,000 limitation set forth in this subsection.

(3) No royalty shall be payable under this section with respect to minerals processed at a facility by the same person or entity which extracted the minerals if an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974 with respect to any portion of such facility.

(4) The obligation to pay royalties under this section shall accrue only upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(c) DEFINITIONS.—For the purposes of this subtitle:

(1) The term ''net proceeds'' means gross yield, less the sum of the following deductions for costs incurred prior to sale or value determination, and none other:

(A) The actual cost of extracting the locatable mineral.

(B) The actual cost of transporting the locatable mineral from the claim to the place or places of reduction, beneficiation, refining, and sale.

(C) The actual cost of crushing, processing, reduction, beneficiation, refining, and sale of the locatable mineral.

(D) The actual cost of marketing and delivering the locatable mineral and the conversion of the locatable mineral into money.

(E) The actual cost of maintenance and repairs of—

(i) all machinery, equipment, apparatus, and facilities used in the mine;

(ii) all crushing, milling, leaching, refining, smelting, and reduction works, plants, and facilities; and

(iii) all facilities and equipment for transportation.

(F) The actual cost for support personnel and support services at the mine site, including without limitation, accounting, assaying, drafting and mapping, computer services, surveying, housing, camp, and office expenses, safety, and security.

(G) The actual cost of engineering, sampling, and assaying pertaining to development and production.

(H) The actual cost of permitting, reclamation, environmental compliance and monitoring.

(I) The actual cost of fire and other insurance on the machinery, equipment, apparatus, works, plants, and facilities mentioned in subparagraph (E).

(J) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants, and facilities listed in subparagraph (E). The annual depreciation charge shall consist of amortization of the original cost in the manner consistent with the Internal Revenue Code of 1986, as amended from time to time. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

(K) All money expended for premiums for industrial insurance, and the owner paid cost of hospital and medical attention and accident benefits and group insurance for all employees engaged in the production or processing of locatable minerals.

(L) All money paid as contributions or payments under State unemployment compensation law, all money paid as contributions under the Federal Social Security Act, and all money paid to State government in real property taxes and severance or other taxes measured or levied on production, or Federal excise tax payments and payments as fees or charges for use of the Federal lands from which the locatable minerals are produced.

(M) The actual cost of the developmental work in or about the mine or upon a group of mines when operated as a unit.

(2) The term ''gross yield'' shall having the following meaning:

(A) In the case of sales of gold and silver ore, concentrates or bullion, or the sales of other locatable minerals in the form of ore or concentrates, the term ''gross yield'' means the actual proceeds of sale of such ore, concentrates or bullion.

(B) In the case of sales of beneficiated products from locatable minerals other than those subject to subparagraph (A) (including cathode, anode or copper rod or wire, or other products fabricated from the locatable minerals), the term ''gross yield'' means the gross income from mining derived from the first commercially marketable product determined in the same manner as under section 613 of the Internal Revenue Code of 1986.

(C) If ore, concentrates, beneficiated or fabricated products, or locatable minerals are used or consumed and are not sold in an arms length transaction, the term ''gross yield'' means the reasonable fair market value of the ore, concentrates, beneficiated or fabricated products at the mine or wellhead determined from the first applicable of the following:

(i) Published or other competitive selling prices of locatable minerals of like kind and grade.

(ii) Any proceeds of sale.

(iii) Value received in exchange for any thing or service.

(iv) The value of any locatable minerals in kind or used or consumed in a manufacturing process or in providing a service.

Without limiting the foregoing, the profits or losses incurred in connection with forward sales, futures or commodity options trading, metal loans, or any other price hedging or speculative activity or arrangement shall not be included in gross yield.

(3) The term ''Secretary'' means the Secretary of the Interior.

(d) LIMITATIONS AND ALLOCATIONS OF NET PROCEEDS, GROSS YIELD, AND ALLOWABLE COSTS.—(1) The deductions listed in subsection (c)(1) are intended to allow a reasonable allowance for overhead. Such deductions shall not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in—

(A) the working of the mine;

(B) the operating of the leach pads, ponds, plants, mills, smelters, or reduction works;

(C) the operating of the facilities or equipment for transportation; or

(D) superintending the management of any of those operations described in subparagraphs (A) through (C).

(2) Ores or solutions of locatable minerals subject to the royalty requirements of this section may be extracted from mines comprised of mining claims and lands other than mining claims and ore or solutions of locatable minerals subject to the royalty requirements of this section may be commingled with ores or solutions from lands other than mining claims. In any such case, for purposes of determining the amount of royalties payable under this section—

(A) the operator shall first sample, weigh or measure, and assay the same in accordance with accepted industry standards; and

(B) gross yield, allowable costs and net proceeds for royalty purposes shall be allocated in proportion to mineral products recovered from the mining claims in accordance with accepted industry standards.

(e) LIABILITY FOR ROYALTY PAYMENTS.—The owner or co-owners of a mining claim subject to a royalty under this section shall be liable for such royalty to the extent of the interest in such claim owned. As used in this subsection, the terms ''owner'' and ''co-owner'' mean the person or persons owning the right to mine locatable minerals from such claim and receiving the net proceeds of such sale. No person who makes any royalty payment attributable to the interest of the owner or co-owners liable therefor shall become liable to the United States for such royalty as a result of making such payment on behalf of such owner or co-owners.

(f) TIME AND MANNER OF PAYMENT.—(1) Royalty payments for production from any mining claim subject to the royalty payable under this section shall be due to the United States at the end of the month following the end of the calendar quarter in which the net proceeds from the sale of such production are received by the owner or co-owners. Royalty payments may be made based upon good faith estimates of the gross yield, net proceeds and the quantity of ore, concentrates, or other beneficiated or fabricated products of locatable minerals, subject to adjustment when the actual annual gross yield, net proceeds and quantity are determined by the owner of the mining claim or site or co-owners.

(2) Each royalty payment or adjustment shall be accompanied by a statement containing each of the following:

(A) The name and Bureau of Land Management serial number of the mining claim or claims from which ores, concentrates, solutions or beneficiated products of locatable minerals subject to the royalty required in this section were produced and sold for the period covered by such payment or adjustment.

(B) The estimated (or actual, if determined) quantity of such ore, concentrates, solutions or beneficiated or fabricated products produced and sold from such mining claim or claims for such period.

(C) The estimated (or actual, if determined) gross yield from the production and sale of such ore, concentrates, solutions or beneficiated products for such period.

(D) The estimated (or actual, if determined) net proceeds from the production and sale of such ores, concentrates, solutions or beneficiated products for such period, including an itemization of the applicable deductions described in subsection (c)(1).

(E) The estimated (or actual, if determined) royalty due to the United States, or adjustment due to the United States or such owner or co-owners, for such period.

(3) In lieu of receiving a refund under subsection (h), the owner or co-owners may elect to apply any adjustment due to such owner or co-owners as an offset against royalties due from such owner or co-owners to the United States under this Act, regardless of whether such royalties are due for production and sale from the same mining claim or claims.

(g) RECORDKEEPING AND REPORTING REQUIREMENTS.—(1) An owner, operator, or other person directly involved in the conduct of mineral activities, transportation, purchase, or sale of locatable minerals, concentrates, or products derived therefrom, subject to the royalty under this section, through the point of royalty computation, shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with regulations or orders under this section. Upon the request of the Secretary when conducting an audit or investigation pursuant to subsection (i), the appropriate records, reports, or information required by this subsection shall be made available for inspection and duplication by the Secretary.

(2) Records required by the Secretary under this section shall be maintained for 3 years after the records are generated unless the Secretary notifies the record holder that he or she has initiated an audit or investigation specifically identifying and involving such records and that such records must be maintained for a longer period. When an audit or investigation is under way, such records shall be maintained until the earlier of the date that the Secretary releases the record holder of the obligation to maintain such records or the date that the limitations period applicable to such audit or investigation under subsection (i) expires.

(h) INTEREST ASSESSMENTS.—(1) If royalty payments under this section are not received by the Secretary on the date that such payments are due, or if such payments are less than the amount due, the Secretary shall charge interest on such unpaid amount. Interest under this subsection shall be computed at the rate published by the Department of the Treasury as the ''Treasury Current Value of Funds Rate.'' In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount, and only for the number of days such payment is late. No other late payment or underpayment charge or penalty shall be charged with respect to royalties under this section.

(2) In any case in which royalty payments are made in excess of the amount due, or amounts are held by the Secretary pending the outcome of any appeal in which the Secretary does not prevail, the Secretary shall promptly refund such overpayments or pay such amounts to the person or persons entitled thereto, together with interest thereon for the number of days such overpayment or amounts were held by the Secretary, with the addition of interest charged against the United States computed at the rate published by the Department of the Treasury as the ''Treasury Current Value of Funds Rate.''

(i) AUDITS, PAYMENT DEMANDS AND LIMITATIONS.—(1) The Secretary may conduct, after notice, any audit reasonably necessary and appropriate to verify the payments required under this section.

(2) The Secretary shall send or issue any billing or demand letter for royalty due on locatable minerals produced and sold from any mining claim subject to royalty required by this section not later than 3 years after the date such royalty was due and must specifically identify the production involved, the royalty allegedly due and the basis for the claim. No action, proceeding or claim for royalty due on locatable minerals produced and sold, or relating to such production, may be brought by the United States, including but not limited to any claim for additional royalties or claim of the right to offset the amount of such additional royalties against amounts owed to any person by the United States, unless judicial suit or administrative proceedings are commenced to recover specific amounts claimed to be due prior to the expiration of 3 years from the date such royalty is alleged to have been due.

(j) TRANSITIONAL RULES.—Any mining claim for which a patent is issued pursuant to section 9502(b) shall not be subject to the obligation to pay the royalty pursuant to this section. Royalty payments for any claim processed under section 9502(b) shall be suspended pending final determination of the right to patent. For any such claim that is determined not to qualify for the issuance of a patent under section 9502(b), royalties shall be payable under this section on production after the date of enactment of this Act, plus interest computed at the rate published by the Department of the Treasury as the ''Treasury Current Value of Funds Rate'' on production after such date of enactment and before the date of such determination.

(k) DISBURSEMENT OF REVENUES.—The receipts from royalties collected under this section shall be disbursed as follows:

(1) Two-thirds of such receipts shall be paid into the Treasury of the United States and deposited as miscellaneous receipts.

(2) One-third of such receipts shall be paid by the Secretary of the Treasury to the State in which the mining claim from which production occurred is located.

(l) NO IMPLIED COVENANTS.—The owner of a mining claim subject to the provisions of this title shall have no obligation, express or implied, to explore for, develop, produce or market locatable minerals as a result of the obligation to pay a royalty hereunder, and the timing, nature, extent and manner of exploring, developing, mining and marketing such locatable minerals shall be in the sole discretion of the claim owner.

SEC. 9504. MINERAL MATERIALS.

(a) DETERMINATIONS.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended as follows:

(1) Insert ''(a)'' before the first sentence.

(2) Add the following new subsection at the end thereof:

''(b)(1) Subject to valid existing rights, after the date of enactment of this subsection, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of

mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal only under the terms and conditions of the Materials Act of 1947.

''(2) For purposes of paragraph (1), the term 'valid existing rights' means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of the enactment of this subsection, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to such date of enactment and that such claim continues to be valid under this Act.''.

(b) IDENTIFIED DEPOSITS.—In order to assure that the Secretary has the authority to provide for the development of mineral materials which, in order to justify the investment necessary for the development of the appropriate mine, quarry or other workings and related facilities, may require longer and more secure tenure than is provided by sales contracts under the Act entitled ''An Act to provide for the disposal of materials on the public lands of the United States'', approved July 31, 1947 (30 U.S.C. 602), and in order to provide flexibility with regard to the manner of disposition of mineral materials section 2 of such Act is amended by adding at the end the following:

''(b) IDENTIFIED DEPOSITS.—(1) Lands known to contain valuable deposits of mineral materials subject to this Act and subsequent amendments and not covered by any contract, permit, or lease under this section shall also be subject to disposition by lease under this Act by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such reasonably compact areas as he shall fix.

''(2) All leases will be conditioned upon—

''(A) the payment by the lessee of such royalty as may be fixed in the lease, not less than two percent of the quantity or gross value of the output of mineral materials, and

''(B) the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for that year being credited against royalties accruing for that year.

''(3)(A) Any lease issued under this subsection shall be for a term of 20 years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each 20-year period succeeding the date of the lease such reasonable adjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods.

''(B) Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee.

''(C) The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss.

''(D) The Secretary upon application by the lessee prior to the expiration of any existing lease in good standing shall amend such lease to provide for the same tenure and to contain the same conditions, including adjustment at the end of each 20-year period succeeding the date of said lease, as provided for in this subsection.

''(c) OTHER LANDS.—(1) The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for mineral materials in lands belonging to the United States which are not subject to subsection (b), and are not covered by a contract, permit, or lease under this Act, except that a prospecting permit shall not exceed a period of 2 years and the area to be included in such a permit shall not exceed 2,560 acres of land in reasonably compact form.

''(2) The Secretary of the Interior shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this Act appropriate provisions for its cancellation by him.

''(3) Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the mineral materials subject to the Materials Act of 1947 have been discovered by the permittee within the area covered by his permit, and that such land is valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of not less than two percent of the quantity or gross value of the output of the mineral materials at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public land surveys, or if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior.''.

(d) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612), as amended as follows:

(1) In subsection (b) insert ''and mineral material'' after ''vegetative''.

(2) In subsection (c) insert ''and mineral material'' after ''vegetative''.

(e) CONFORMING AMENDMENT.—Section 1 of the Act of July 31, 1947, entitled ''An Act to provide for the disposal of materials on the public lands of the United States'' (30 U.S.C. 601 and following) is amended by striking ''common varieties of'' in the first sentence.

(f) SHORT TITLES.—

(1) SURFACE RESOURCES.—The Act of July 23, 1955, is amended by inserting after section 7 the following new section:

''SEC. 8. This Act may be cited as the 'Surface Resources Act of 1955'.''.

(2) MINERAL MATERIALS.—The Act of July 31, 1947, entitled ''An Act to provide for the disposal of materials on the public lands of the United States'' (30 U.S.C. 601 and following) is amended by inserting after section 4 the following new section:

''SEC. 5. This Act may be cited as the 'Materials Act of 1947'.''.

(g) REPEALS.—(1) Subject to valid existing rights, the Act of August 4, 1892 (27 Stat. 348, 30 U.S.C. 161), commonly known as the Building Stone Act, is hereby repealed.

(2) Subject to valid existing rights, the Act of January 31, 1901 (30 U.S.C. 162), commonly known as the Saline Placer Act, is hereby repealed.

(h) AUTHORIZATION FOR DISPOSAL OF MINERAL MATERIALS BY CONTRACT.—Section 2(a) of the Act entitled ''An Act to provide for the disposal of materials on the public lands of the United States'', approved July 31, 1947 (30 U.S.C. 602(a)), is amended—

(1) by striking the period at the end of paragraph (3) and inserting ''or, if''; and

(2) by adding after paragraph (3) the following:

''(4) the material is a mineral material.''.

(i) SODIUM.—Section 24 of the Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after ''2 per centum'' in each place it appears the following: ''and not greater than five and one-half per centum''. Any rate under section 24 of the Mineral Leasing Act (30 U.S.C. 181) in excess of five and one-half per centum shall not be allowed unless the following conditions are met:

(1) the Secretary, in consultation with the Secretary of Commerce and the United States Trade Representative, finds that any increase in the royalty rate for sodium will not have an adverse effect on the export of domestically produced soda ash;

(2) the Secretary reports this finding of no ''adverse effect'' to Congress and recommends an additional proposed royalty rate increase; and

(3) the Congress, within 360 days, approves the Secretary's recommendation.

The Secretary shall, within 90 days, offer for competitive bid all tracts for which there are applications pending on sodium leases.

SEC. 9505. CLAIM MAINTENANCE REQUIREMENTS.

(a) MAINTENANCE FEES.—

(1) ANNUAL MAINTENANCE FEE.—After the date of enactment of this Act, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Act, shall pay to the Secretary in advance on or before September 1 of each year, until a patent has been issued therefor, an annual maintenance fee per mining claim or site.

(2) INITIAL MAINTENANCE FEE.—The owner of each unpatented mining claim or site located after the date of enactment of this Act pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), the location fee required under subsection (i) of this section, in lieu of the annual maintenance fee of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site.

(3) EXEMPTION.—The owner of any mining claim or site who certifies in writing to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied or impeded during the prior assessment year by the action or inaction of any local, State, or Federal governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the annual maintenance fee requirements of paragraph (1) for the assessment year following the filing of the certification.

(4) AMOUNT OF ANNUAL MAINTENANCE FEE.—For each assessment year the annual maintenance fee payable under paragraph (1) for a claim or site referred to in paragraph (1) shall be in the amount specified in Table 1.

TABLE 1

Assessment Year	Amount of Fee Per Site or Claim
1 through 3	$100 per year
4 through 5	$150 per year
6 through 10	$200 per year
11 through 15	$300 per year
16 and thereafter	$500 per year

For purposes of applying Table 1 in the case of claims filed before the enactment of this Act, the portion of the assessment year in which this Act is enacted shall be treated as the first assessment year.

(5) EFFECT OF FORFEITURE.—No owner or co-owner of a mining claim or site which has been forfeited because the maintenance fee has not been paid and no person who is a related person of any such owner or co-owner may relocate a new claim on any part of lands located within the forfeited claim for a period of 18 months after the date of forfeiture.

(6) DEPOSIT OF FEES.—The full amount of all fees paid under this subsection shall be deposited in the General Fund of the Treasury.

(b) ANNUAL LABOR.—(1) Amounts expended on activities that qualify as annual labor under the general mining laws may be credited on a dollar for dollar basis towards up to 75 percent of the annual maintenance fee payable under this section for the following assessment year.

(2) Subject to the 75 percent limit set forth in paragraph (1), the excess of amounts expended for annual labor performed in any one year over such 75 percent limit may be applied to the maintenance fee due in subsequent years for a period of up to three years.

(3) In order to receive credit under this subsection for annual labor work or excess annual labor, the description and value of the work must be included in the statement required in subsection (e) and the statement must be timely filed.

(4) Annual labor performed on an individual mining claim or site within a group of contiguous claims may be credited towards the aggregate amount of maintenance fees due on all of the contiguous claims within that group.

(c) WORK QUALIFYING AS ANNUAL LABOR.—(1) Only work which directly benefits or develops a mining claim or facilitates the extraction of ore qualifies as annual labor. Acceptable labor and improvements include any of the following:

(A) Drilling or excavating, including ore extraction.

(B) Mining costs directly associated with the production of ore.

(C) Prospecting work which benefits the location or a contiguous location.

(D) Development work toward an actual mine, such as shafts, tunnels, crosscuts and drifts, settling ponds and dams.

(E) Bringing in water for direct mining or milling purposes.

(F) Clearing of brush, timber, debris, or overburden where necessary to facilitate the extraction or processing of minerals.

(G) Construction of trails, roads, or landing strips providing access to claims.

(H) Construction costs of worker housing, mills, and equipment storage buildings where reasonably necessary for the development of the location.

(I) Reasonable value of the use of equipment for prospecting, mining, or development purposes on the location.

(J) Repairs of equipment used for prospecting, sampling, or production of minerals provided that such equipment has been on site during the assessment year.

(K) Cost of moving workers, materials, and equipment among contiguous locations.

(L) Watchman services of a bona fide employed watchman on the property where reasonably necessary to protect mining equipment of substantial value.

(M) Activities covered under section 1 of the Act of September 2, 1958 (30 U.S.C. 28–1), as amended.

(N) Reclamation conducted pursuant to State or Federal surface management regulations.

(O) Other activities which the Secretary may determine qualify as annual labor.

(2) The following activities do not qualify as annual labor:

(A) Work involved in maintaining the location such as brushing and marking boundaries or replacing corner posts and location notices.

(B) Transportation of workers to or from the location.

(C) Prospecting or exploration work not conducted within the location or a contiguous location.

(d) AMENDMENTS OF PUBLIC LAW 85–876.—The Act of September 2, 1958 (Public Law 85–876; 30 U.S.C. 28–1), is amended as follows:

(1) Section 1 is amended by inserting ''mineral activities, environmental baseline monitoring, and'' after ''without being limited to'' and before ''geological, geochemical and geophysical surveys'' and by striking ''Such'' at the beginning of the last sentence and inserting ''Airborne''.

(2) Section 2(d) is amended by inserting ''environmental baseline monitoring or'' after ''experience to conduct'' and before ''geological, geochemical or geophysical surveys''.

(3) Section 2 is amended by adding at the end of the following new subsection at the end thereof:

''(e) The term 'environmental baseline monitoring' means activities for collecting, reviewing and analyzing information concerning soil, vegetation, wildlife, mineral, air, water, cultural, historical, archaeological or other resources related to planning for or complying with Federal and State environmental or permitting requirements applicable to potential or proposed mineral activities on the claim(s).''.

(e) MAINTENANCE FEE STATEMENT.—Each payment under subsection (a) of this section shall be accompanied by a statement which reasonably identifies the mining claim or site for which the maintenance fee is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(f) ANNUAL LABOR REPORT.—When the value of annual labor is credited towards part or all of the maintenance fee, subject to the 75-percent limit set forth in subsection (b)(1), the following shall apply:

(1) The maintenance fee statement required in subsection (e) must also state the dates of performance of the labor, describe the character and total value of the improvements made or the labor performed, the amount of labor used as a credit toward the maintenance fee for the current year, and the value of excess labor performed in previous years which is to be applied to the maintenance fee for the current year.

(2) Documentation which reasonably supports the activities or improvements claimed must accompany the maintenance fee statement. Such documentation may include, but is not limited to, copies of maps showing sample locations, drill locations, or survey data; environmental baseline data; reports on geology, geochemistry, or geophysics by qualified experts; drill results; or engineering reports by qualified engineers.

(3) All supporting material filed pursuant to paragraph (2) shall remain confidential in accordance with section 552 of title 5 of the United States Code as long as the location is maintained and for a period of one year after the location is abandoned, after which all data filed shall be considered public information.

(g) EFFECT OF COMPLIANCE AS AGAINST SUBSEQUENT LOCATORS.—(1) Except as provided in paragraph (2), after the date of enactment of this Act, compliance with the requirements of this section shall, from the time the location notice or certificate is posted on the land under applicable State law, confer upon the owner of any unpatented mining claim or site, whether located before or after the date of enactment of this Act, an exclusive right of possession, as against subsequent locators, of the land included in such mining claim or site under the general mining laws. If more than one mining claim or site owned or controlled by the same claim or site owner covers substantially the same land, by reason of the location of one or more mining claims or sites on such land, the amendment or relocation of any such mining claim or site, or otherwise, such exclusive right of possession shall extend to all such mining claims or sites, effective from the time the location notice or certificate for the initial mining claim or site was posted on such land under applicable State law. The order of location, amendment, or relocation of any such mining claims or sites on such land shall not affect the validity of any such mining claim or site. Such owner of the mining claim or site shall not be required to be in actual, physical occupation of such land and shall not be required to exclude rival locators from such land. Such exclusive right of possession shall be subject to applicable Federal law, including the Multiple Mineral Development Act of 1954 (30 U.S.C. 521–31), the Materials Act of 1947 (30 U.S.C. 601–604) and the Surface Resources Act of 1955 (30 U.S.C. 611–15) to the extent applicable, and shall neither enlarge nor diminish any rights of such owner of the mining claim or site as against the United States in such land. This paragraph shall supersede the common law doctrine of pedis possessio.

(2) Conflicts over the right of exclusive possession of land included in any mining claim or site shall be determined in proceedings between owners of mining claims or sites under the provisions of section 910 of the Revised Statutes (30 U.S.C. 53) and other applicable law, including but not limited to each of the following:

(A) Any conflict based upon circumstances existing as of the date of enactment of this Act between mining claims or sites located before the date of enactment of this Act, shall be resolved under the law in effect on the day prior to the date of enactment of this Act, including the common law doctrine of pedis possessio.

(B) Any conflict arising on or after the date of enactment of this Act between mining claims or sites located before, on or after the date of enactment over whether either owner of the mining claim or site has complied with the requirements of this section, shall be resolved under this Act.

(h) FAILURE OF CO-OWNER TO CONTRIBUTE.—Upon the failure of any one or more of several co-owners of any mining claim or site to contribute such co-owner or owners' portion of any location or maintenance fee payable under this section, any co-owner who has paid such fee may, after the payment due date, serve the delinquent co-owner or owners with notice of such failure in writing or, if such delinquent co-owner or owners cannot be located after reasonable efforts, by publication in a general circulation newspaper published in a location nearest the mining claim or site at least once a week for at least 90 days. If at the expiration of 90 days after such notice in writing or by publication, any delinquent co-owner fails or refuses to contribute the owed portion, such co-owner or owners' interest shall become the property of the owner or co-owners who have paid the required fee.

(i) LOCATION FEE.—The owner of each unpatented mining claim or site located on or after the date of enactment of this Act pursuant to the general mining laws shall pay to the Secretary, at the time the notice

or certificate of location is filed with the Bureau of Land Management pursuant to subsection 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a location fee of $25.00 per mining claim or site. The full amount of all fees paid under this subsection shall be deposited in the General Fund of the Treasury. Effective on the date of the enactment of this Act, section 10102 of the Omnibus Budget Reconciliation Act of 1993 (107 Stat. 406; 30 U.S.C. 28g) is repealed.

(j) CREDIT AGAINST MAINTENANCE FEE.—(1) Except as provided in paragraph (2), the annual maintenance fee payable for any unpatented mining claim or site for any assessment year shall be reduced by the amount of royalty paid by such claimholder for such mining claim or site, or for any contiguous mining claim or site, during the prior assessment year.

(2) Royalties paid during any assessment year prior to the first full assessment year commencing after the enactment of this Act shall not reduce the amount of any maintenance fee.

(k) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEE UNDER ENERGY POLICY ACT OF 1992.—This section shall not apply to any oil shale claims for which a fee is required to be paid under paragraph 2511(e)(2) of the Energy Policy Act of 1992 (30 U.S.C. 242(e)(2)).

(l) FAILURE TO COMPLY.—The failure of the owner of the mining claim or site to pay any claim maintenance fee or location fee for a mining claim or site on or before the date such payment is due under this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due, except that if such maintenance fee or location fee is paid or tendered on or before the 30th day after such payment was due under subsection of this section, such mining claim or site shall not be forfeited or null or void, and such maintenance fee or location fee shall be deemed timely paid.

(m) AMENDMENT OF FLPMA FILING REQUIREMENTS.—(1) Section 314(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)) is hereby repealed.

(2) Section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) is amended to read as follows:

''(c) FAILURE TO FILE AS CONSTITUTING FORFEITURE; DEFECTIVE OR UNTIMELY FILING.—The failure to timely file the copy of the notice or certificate of location as required by subsection (b) shall constitute forfeiture of the mining claim and such claim shall be null and void by operation of law; except that it shall not be considered a failure to file if the notice or certificate of location is defective or not timely filed for record under other State or Federal laws permitting or requiring the filing or recording thereof, or if the copy of the notice or certificate is filed by or on behalf of some but not all of the owners of the claim.''.

(n) RELATED PERSONS.—As used in this section, the term ''related persons'' includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(o) REPEAL.—Section 10101 of the Omnibus Budget Reconciliation Act of 1993 (107 Stat. 406; 30 U.S.C. 28g) is repealed, effective with respect to assessment year commencing after the enactment of this Act.

(p) PERIODIC REVIEW OF FEE STRUCTURE.—Beginning in the year 2005 and at 10 year intervals thereafter, the Secretary shall review the costs incurred by the Secretary to administer mining claims for locatable minerals under the general mining laws and the structure and level of maintenance and location fees received by the Secretary with respect to such claims. The Secretary shall determine if the revenues from such fees is adequate to cover such costs, taking inflation and other appropriate factors into account. The Secretary shall submit the results of each such review to the Congress, together with such legislative recommendations as the Secretary deems appropriate.

PART 2—FEDERAL OIL AND GAS ROYALTIES

SEC. 9511. SHORT TITLE.

This part may be cited as the ''Federal Oil and Gas Royalty Simplification and Fairness Act of 1995''.

SEC. 9512. DEFINITIONS.

(a) IN GENERAL.—Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended—

(1) by amending paragraph (7) to read as follows:

''(7) 'lessee' means any person to whom the United States, an Indian tribe, or an Indian allottee issues a lease or any person to whom operating rights have been assigned;''; and

(2) by striking ''and'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

''(17) 'adjustment' means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on a lease;

''(18) 'administrative proceeding' means any agency process in which a demand, decision or order issued by the Secretary is subject to appeal or has been appealed;

''(19) 'assessment' means any fee or charge levied or imposed by the Secretary or the United States other than—

''(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

''(B) any interest; or

''(C) any civil or criminal penalty;

''(20) 'commence' means—

''(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, crossclaim, or other pleading seeking affirmative relief or seeking credit or recoupment; or

''(B) with respect to a demand, the receipt by the Secretary or a lessee of the demand;

''(21) 'credit' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

''(22) 'demand' means—

''(A) an order to pay issued by the Secretary; or

''(B) a separate written request by a lessee which asserts an obligation due the lessee,

but does not mean any royalty or production report, or any information contained therein, required by the Secretary;

''(23) 'obligation' means—

''(A) any duty of the Secretary or the United States—

''(i) to take oil or gas royalty in kind; or

''(ii) to pay, refund, offset, or credit monies including but not limited to—

''(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

''(II) any interest;

''(B) any duty of a lessee—

''(i) to deliver oil or gas royalty in kind; or

''(ii) to pay, offset or credit monies including but not limited to—

''(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

''(II) any interest;

''(III) any penalty; or

''(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

''(24) 'order to pay' means a written order issued by the Secretary or the United States which—

''(A) asserts a definite and quantified obligation; and

''(B) specifically identifies the obligation by lease, production month and amount of such obligation ordered to be paid, as well as the reason or reasons such obligation is claimed to be due,

but such term does not include any other communication or action by or on behalf of the Secretary or the United States;

''(25) 'overpayment' means any payment by a lessee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

''(26) 'payment' means satisfaction, in whole or in part, of an obligation;

''(27) 'penalty' means a statutorily authorized civil fine levied or imposed by the Secretary or the United States for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

''(28) 'refund' means the return of an overpayment by the Secretary or the United States by the drawing of funds from the United States Treasury;

''(29) 'State concerned' means, with respect to a lease, a State which receives a portion of royalties under this Act from such lease; and

''(30) 'underpayment' means any payment or nonpayment by a lessee that is less than the amount legally required to be paid on an obligation.''.

(b) LESSEE LIABILITY.—Section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712(a)) is amended to read as follows:

''(a) A lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary. A lessee may designate a person to act on the lessee's behalf and shall notify the Secretary in writing of such designation. The person to whom the United States issues a lease or the person by whom operating rights are currently owned, but not both, shall remain primarily liable for its obligations.''.

SEC. 9513. LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

''SEC. 115. LIMITATION PERIODS AND AGENCY ACTIONS.

''(a) IN GENERAL.—A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within six years from the date on which the obligation becomes due and if not so commenced shall be barred, except as otherwise provided by this section.

''(b) OBLIGATION BECOMES DUE.—

''(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

''(2) ROYALTY OBLIGATIONS.—The right to enforce the royalty obligation for a production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

''(c) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (a) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or the United States, other than the following:

''(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.

''(2) SUBPOENA.—The issuance of a subpoena in accordance with the provisions of section 107(c) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee receives the subpoena and ending on the date on which (A) the lessee has produced such subpoenaed records for the subject obligation, (B) the Secretary receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's possession or control, or (C) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

''(3) FRAUD OR CONCEALMENT.—Any fraud or concealment by a lessee in an attempt to defeat or evade an obligation in which case the limitation period shall be tolled for the period of such fraud or such concealment.

''(4) TOLLING REQUEST.—A written tolling request from a lessee based upon the lessee's representation that the lessee's entitlement to an overpayment has not been finally determined. The limitation period shall be tolled pursuant to this paragraph from the date the Secretary receives the tolling request until the earlier of the end of the requested period or 12 months after the date the Secretary receives the tolling request, but is subject to successive 12-month renewals by the lessee made prior to the expiration of the then applicable 12-month period. The tolling request shall be sufficient if it identifies—

''(A) the person who made the potential overpayment;

''(B) the leases and production months involved in the potential overpayment; and

''(C) the reasons the lessee believes that it may later be entitled to a refund of the overpayment.

''(5) ORDER TO PERFORM A RESTRUCTURED ACCOUNTING.—The issuance of a notice under section 107(d)(4) that the lessee has not adequately performed a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee receives the notice and ending on the date on which (A) the Secretary receives written notice the accounting or other requirement has been performed, or (B) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

''(d) TERMINATION OF LIMITATION PERIOD.—The limitation period shall be terminated in the event—

''(1) the Secretary has notified the lessee in writing that a time period is closed to further audit; or

''(2) the Secretary and a lessee have so agreed in writing.

''(e) FINAL AGENCY ACTION.—

''(1) 3-YEAR PERIOD.—The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995, within three years from the date such proceeding was initiated or three years from the date of such enactment, whichever is later. The three-year period may be extended by any period of time agreed upon in writing by the Secretary and the lessee.

''(2) EFFECT OF FAILURE TO ISSUE DECISION.—

''(A) IN GENERAL.—If no such decision has been issued by the Secretary within the three-year period referred to in paragraph (1)—

''(i) the Secretary shall be deemed to have issued and granted a decision in favor of the lessee or lessees as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $2,500; and

''(ii) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $2,500 or more, and the lessee shall have a right to a de novo judicial review of such deemed final decision.

''(B) NO PRECEDENTIAL EFFECT ON OTHER PROCEEDINGS.—Deemed decisions under subparagraph (A) shall have no precedential effect in any judicial or administrative proceeding or for any other purpose.

''(f) ADMINISTRATIVE SETTLEMENT.—During the pendency of any administrative proceeding, the parties shall hold at least one settlement consultation for the purpose of discussing disputed matters between the parties. For purposes of settlement, the Secretary may take such action as is appropriate to compromise and settle a disputed obligation, including interest and allowing offsetting of obligations among leases. The Secretary and the State concerned shall seek to resolve disputes with a lessee in as expeditious a manner as possible, through settlement negotiations and other alternative dispute resolution processes methods. If any dispute involving an obligation due is not resolved by the end of the six-year period beginning on the date the obligation became due, the amount of interest otherwise payable with respect to the obligation shall accrue after such six-year period at the rate—

''(1) for purposes of section 111(h), reduced each year thereafter by two additional percentage points from the rate in effect under this subsection for the previous year (but not less than zero); and

''(2) for purposes of section 111(a), reduced each year thereafter by one additional percentage point from the rate in effect under this subsection for the previous year (but not less than zero).

''(g) LIMITATION ON CERTAIN ACTIONS.—When an action on or enforcement of an obligation under the mineral leasing laws is barred under this section—

''(1) no other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation may be taken; and

''(2) no other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation may be pursued.

''(h) JUDICIAL REVIEW.—In the event a demand subject to this section is timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee of the final agency action.

''(i) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

''(j) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or the United States to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the party periodically demonstrates to the satisfaction of the Secretary that such party is financially solvent or otherwise able to pay the obligation. In the event the party is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any party ordered by the Secretary to pay an assessment shall be entitled to a stay without bond or other surety instrument.

''(k) INAPPLICABILITY OF THE OTHER STATUTES OF LIMITATION.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, section 42 of the Mineral Leasing Act (30 U.S.C. 226-2) and section 3716 of title 31, United States Code, shall not apply to any obligation to which this Act applies.''.

(b) SUBPOENA.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717) is amended by adding at the end the following:

''(c) RULES REGARDING ISSUANCE OF SUBPOENA RELATING TO REPORTING AND PAYMENT OF AN OBLIGATION DUE.—

''(1) IN GENERAL.—A subpoena which requires a lessee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued under this section only by an Assistant Secretary of the Interior and an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated.

''(2) PRIOR WRITTEN REQUEST REQUIRED.—A subpoena described in paragraph (1) may only be issued against a lessee during the limitation period provided in section 115 and only after the Secretary has in writing requested the records from the lessee related to the obligation which is the subject of the subpoena and has determined that—

''(A) the lessee has failed to respond within a reasonable period of time to the Secretary's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act;

''(B) the lessee has in writing denied the Secretary's written request to produce such records in the lessee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act; or

''(C) the lessee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act after the Secretary's written request.

''(3) REASONABLE PERIOD FOR COMPLIANCE WITH WRITTEN REQUEST.—In seeking records, the Secretary shall afford the lessee a reasonable period of time after a written request by the Secretary in which to provide such records prior to the issuance of any subpoena.''.

(c) RESTRUCTURED ACCOUNTING.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717), as

amended by subsection (b) of this section, is amended by adding at the end the following:

''(d) RESTRUCTURED ACCOUNTING.—

''(1) IN GENERAL.—The Secretary shall issue an order to perform a restructured accounting when the Secretary determines during an in-depth audit of a lessee that the lessee should recalculate royalty due on an obligation based upon the Secretary's finding that the lessee has made identified underpayments or overpayments which are demonstrated by the Secretary to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

''(2) DELEGATION.—The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the 'Associate Director for Royalty Management'. An order to perform a restructured accounting shall—

''(A) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

''(B) specify the reasons and factual bases for such order; and

''(C) be specifically identified as an 'order to perform a restructured accounting'.

''(3) ORDER TO PERFORM.—An order to perform a restructured accounting shall not include any other communication or action by or on behalf of the Secretary or the United States.

''(4) NOTICE.—If a lessee fails to adequately perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee that the restructured accounting has not been adequately performed. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated.''.

(d) STATE SUITS.—Section 204 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1751) is amended by adding at the end the following:

''(d) With respect to an obligation, a State bringing an action under this section shall enjoy no greater rights than the Secretary enjoys under this Act.''.

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 114 the following new item:

''Sec. 115. Limitation periods and agency actions.''.

SEC. 9514. ADJUSTMENT AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 111 the following new section:

''SEC. 111A. ADJUSTMENTS AND REFUNDS.

''(a) ADJUSTMENTS.—

''(1) If, during the adjustment period, a lessee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary of an adjustment.

''(2)(A) For any adjustment, the lessee shall calculate and report the interest due attributable to such adjustment at the same time the lessee adjusts the principal amount of the subject obligation, except as provided by subparagraph (B).

''(B) In the case of a lessee on whom the Secretary determines that subparagraph (A) would impose a hardship, the Secretary shall calculate the interest due and notify the lessee within a reasonable time of the amount of interest due, unless such lessee elects to calculate and report interest in accordance with subparagraph (A).

''(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary shall allow a credit or refund in the amount of the overpayment.

''(4) For purposes of this section, the adjustment period for any obligation shall be the five-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

''(b) REFUNDS.—

''(1) IN GENERAL.—A request for refund is sufficient if it—

''(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

''(B) identifies the person entitled to such refund;

''(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

''(D) provides the reasons why the payment was an overpayment.

''(2) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

''(3) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary and subject to the provisions of this Act.

''(4) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary directly or indirectly claim any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 111 the following new item:

''Sec. 111A. Adjustments and refunds.''.

SEC. 9515. REQUIRED RECORDKEEPING.

Section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713(b)) is amended by adding at the end the following:

''(c) Records required by the Secretary for the purpose of determining compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under section 115(a). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in section 115.''.

SEC. 9516. ROYALTY INTEREST, PENALTIES, AND PAYMENTS.

(a) PERIOD.—Section 111(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(f)) is amended to read as follows:

''(f) Upon a determination that it will further the effective and efficient performance of his duties and responsibilities, the Secretary may waive or forego such interest in whole or in part. Interest shall be charged under this section only for the number of days a payment is late.''.

(b) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (g) the following:

''(h) Interest shall be allowed and the Secretary shall pay or credit such interest on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986. Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.''.

(c) LIMITATION ON INTEREST.—Section 111 of such Act, as amended by subsection (b) of this Act, is further amended by adding at the end the following:

''(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee for a given reporting month) was made for the sole purpose of receiving interest, interest shall not be paid on the excessive amount of such overpayment. For purposes of this Act, an 'excessive overpayment' shall be the amount that any overpayment a lessee pays for a given reporting month (excluding payments for demands for obligations as a result of judicial or administrative proceedings for settlement

agreements and for other similar payments) for the aggregate of all of its Federal leases exceeds 25 percent of the total royalties paid that month for those leases.''.

(d) ESTIMATED PAYMENT.—Section 111 of such Act, as amended by subsections (b) and (c) of this Act, is further amended by adding at the end the following:

''(j) A lessee may make a payment for the approximate amount of royalties (hereinafter in this subsection 'estimated payment') that would otherwise be due to the Secretary for such lease to avoid underpayment or nonpayment interest charges. When an estimated payment is made, actual royalties become due at the end of the month following the period covered by the estimated payment. If the lessee makes a payment for such actual royalties, the lessee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee.''.

(e) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Section 111 of such Act (30 U.S.C. 1721), as amended by subsections (b) through (d) of this Act, is amended by adding at the end the following:

''(k)(1) Except as otherwise provided by this subsection—

''(A) a lessee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

''(B) a lessee of a lease in any other unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

''(C) a lessee of a lease that is not contained in a unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

''(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

''(3) For any unit or communitization agreement, if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

''(4) The Secretary shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term 'marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per day or 90 thousand cubic feet of gas per day, or a combination thereof, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

''(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.''.

(f) PRODUCTION ALLOCATION.—Section 111 of such Act (30 U.S.C. 1721), as amended by subsections (b) through (e) of this Act, is amended by adding at the end the following:

''(l) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.''.

SEC. 9517. LIMITATION ON ASSESSMENTS.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by section 9516, is further amended by adding at the end the following:

''(m)(1) After the date of enactment of this subsection, the Secretary shall not impose any assessment for any late payment or underpayment. After the date of enactment of this subsection, the Secretary may impose an assessment only for erroneous reports submitted by lessees subject to the limitations of paragraph (2). Nothing in this section shall prohibit the Secretary from imposing penalties or interest under other sections of this Act for late payments or underpayments.

''(2) No assessment for erroneous reports shall be imposed for 18 months following the date of enactment of this subsection, or until the Secretary issues a final rule which provides for imposition of an assessment only on a lessee who chronically submits erroneous reports and which establishes what constitutes chronic errors for a lessee, whichever is later. However, if the Secretary determines during that 18-month period that the reporting error rate for all reporters for all Federal leases has increased by one-third for three consecutive report months for either production reporting or royalty reporting over the 12 months preceding the date of enactment of this subsection, the Secretary may impose an assessment for erroneous reports only for the increased category of report under regulations in effect on the date of enactment of this subsection.''.

SEC. 9518. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by section 9513 of this Act, is further amended by adding at the end the following:

''SEC. 116. ALTERNATIVES FOR MARGINAL PROPERTIES.

''(a) SELLING THE REVENUE STREAM.—

''(1) IN GENERAL.—Notwithstanding the provisions of any lease to the contrary, upon request of the lessee or a State under section 205(g), the Secretary shall authorize a lessee for a marginal property and for a lease, the administration of which is not cost-effective for the Secretary to administer, to make a prepayment in lieu of royalty payments under the lease for the remainder of the lease term. For the purposes of this section, the term 'marginal property' has the same meaning given such term in section 111(k)(4), unless the Secretary, together with each State in which such marginal production occurs, determines that a different definition of marginal property better achieves the purpose of this section.

''(2) MARGINAL PROPERTIES.—For marginal properties, prepayments under paragraph (1) shall begin—

''(A) in the case of those properties producing on average $500 or less per month in total royalties to the United States, two years after the date of the enactment of this section;

''(B) in the case of those properties producing on average more than $500 but $1,000 or less per month in total royalties to the United States, three years after the date of the enactment of this section;

''(C) in the case of those properties producing on average more than $1,000 but $1,500 or less per month in total royalties to the United States, four years after the date of the enactment of this section; and

''(D) in the case of those properties not described in subparagraphs (A) through (C), five years after the date of the enactment of this section.

''(3) ADMINISTRATION NOT COST-EFFECTIVE.—For a lease, the administration of which is not cost-effective for the Secretary to administer, prepayments under paragraph (1) shall begin on the date of the enactment of this section.

''(4) SATISFACTION OF ROYALTY OBLIGATION.—A lessee who makes a prepayment under this section shall have satisfied in full its obligation to pay royalty on production from the lease or a portion of a lease and shall not be required to submit any royalty reports to the Secretary. The prepayment shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

''(5) VALUATION.—The prepayment authorized under this section shall only occur if the Secretary, the State concerned, and the lessee determine that such prepayment is based on the present value of the projected remaining royalties from the production from the lease, based on appropriate nominal discount rate for a comparable term. Prior to accepting such prepayment, the Secretary and State concerned shall agree that such prepayment is in the best interest of the United States and the State concerned.

''(b) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—

''(1) IN GENERAL.—Within one year after the date of the enactment of this section, for the marginal properties referenced in subsection (a)(1), the Secretary shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop such properties: *Provided,* That such relief will only be available to lessees in a State that concurs. Prior to granting such relief, the Secretary and the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and the State concerned.

''(2) PAYMENT DATE.—For leases subject to this section, the Secretary may allow royalties to be paid later than the time specified in the lease.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

''Sec. 116. Alternatives for marginal properties.''.

SEC. 9519. ROYALTY IN KIND.

(a) IN GENERAL.—

(1) OCS.—Section 27(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(1)) is amended by adding at the end the following:

''Any royalty or net profit share of oil or gas accruing to the United States under any such lease, at the Secretary's option, may be taken in kind at or near the lease (unless the lease expressly provides for delivery at a different location) upon prior written notice given reasonably in advance by the Secretary to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until a reasonable time after the Secretary has provided written notice reasonably in advance to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered, the lessee shall not be subject to the reporting and recordkeeping requirements under section 103 for its share of oil and gas production other than records necessary to verify the quantity of oil or gas delivered.''.

(2) ONSHORE.—Section 36 of the Mineral Leasing Act (30 U.S.C. 192) is amended by adding at the end the following undesignated paragraph:

''Notwithstanding the provisions of the previous paragraph, any royalty or net profit share of oil or gas accruing to the United States under any lease issued or maintained by the Secretary for the exploration, production and development of oil and gas on Federal lands, at the Secretary's option, may be taken in kind at or near the lease (unless the lease expressly provides for delivery at a different location) after prior written notice given reasonably in advance by the Secretary to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until a reasonable time after the Secretary has provided written notice reasonably in advance to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered, the lessee shall not be subject to the reporting and recordkeeping requirements under section 103 for its share of oil and gas production other than records necessary to verify the quantity of oil or gas delivered.''.

(b) SALE.—Sections 27(b)(1) and (c)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(c)(1)) are each amended by striking ''competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value'' and inserting ''competitive bidding or private sale''.

SEC. 9520. ROYALTY SIMPLIFICATION AND COST-EFFECTIVE AUDIT AND COLLECTION REQUIREMENTS.

(a) IN GENERAL.—Section 101 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711) is amended by adding at the end the following:

''(d)(1) For the purpose of reducing costs and increasing net royalties to the United States and the States, the Secretary, in consultation with States concerned, shall, within one year after the date of the enactment of this subsection, streamline and simplify current royalty management requirements and practices, including royalty reporting, instructions, audits and collections. This streamlining and simplification shall specifically include—

''(A) elimination of all unnecessary royalty and production reports;

''(B) modification and simplification of remaining reports and associated instructions to eliminate redundant or unnecessary reports and information that are provided or can be obtained from other required reports, forms, computer databases or government agencies;

''(C) elimination or modifications of accounting, reporting, audit and collection requirements that are not cost-effective, particularly those associated with de minimis monetary amounts;

''(D) implementation of specific recommendations and comments contained in Secretarial sponsored teams, rulemakings, and studies or those participated in by the Secretary to the extent these recommendations simplify and streamline royalty management requirements without adversely affecting the Secretary's ability to meet obligations under this Act or other mineral leasing statutes;

''(E) recommendations and comments submitted by interested parties to the extent these recommendations and comments simplify and streamline royalty management requirements without adversely affecting the Secretary's ability to meet obligations under this Act or other mineral leasing statutes.

''(2) The Secretary shall submit to the Congress a progress report on the implementation of this section within six months from date of enactment of this Act, and a final report within 12 months from date of enactment of this Act. These reports shall include—

''(A) a description of the extent to which the Secretary has implemented the requirements in paragraph (1), including a list of specific initiatives implemented;

''(B) a list and description of additional initiatives identified by the Secretary to simplify and streamline royalty management requirements and practices; and

''(C) cost savings of implemented initiatives including impact on net-receipts sharing for States.

''(3) If the Secretary and the State concerned determines that the cost of accounting and auditing for and collecting of any obligation due for any oil and gas production exceeds the amount of the obligation to be collected, the Secretary shall waive such obligation.

''(4) The Secretary and the State concerned shall not perform accounting, reporting, or audit activities if the Secretary and the State concerned determines that the cost of conducting the activity exceeds the expected amount to be collected by the activity.

''(5) The Secretary and the State concerned shall develop a reporting and audit strategy which eliminates multiple or redundant reporting of information.''.

(b) PAPERWORK REDUCTION.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717), as amended by section 9513(b) and (c), is amended by adding at the end the following:

''(e) PAPERWORK REDUCTION.—Administrative actions and investigations (including, but not limited to, accounting collection and audits) under this Act involving obligations shall be subject to section 3518(c)(1)(B) of title 44, United States Code.''.

SEC. 9521. REPEALS.

(a) FOGRMA.—Section 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1755), is repealed. Section 1 of such Act (relating to the table of contents) is amended by striking out the item relating to section 307.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 9522. DELEGATION TO STATES.

(a) GENERAL AUTHORITY.—Section 205(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(a)) is amended to read as follows:

''(a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, such production and royalty accounting duties and responsibilities as the Secretary determines are legally delegable, all audit coverage, and investigations to any State with respect to all Federal lands within the State.''.

(b) STANDARDIZED REPORTING.—Section 205(b) of such Act (30 U.S.C. 1735(b)) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the comma at the end of paragraph (3) and inserting ''; and''; and

(3) by inserting after paragraph (3) the following:

''(4) the State agrees to adopt Federal standardized reporting for Federal royalty accounting and collection purposes,''.

(c) COST EFFECTIVE COLLECTION OF DE MINIMIS ROYALTY AMOUNTS.—Section 205 of such Act (30 U.S.C. 1735) is amended by adding at the end the following:

''(g) Upon written request of any State, the Secretary is authorized to delegate for any year the responsibility to collect royalties from all Federal leases within the State if the average amount per year of mineral revenues received by the State on all such leases under all Federal mineral leasing laws for the previous five years is less than $100,000. The State may also request that the Secretary sell the revenue stream from all or part of the Federal leases within the State in accordance with section 116 of the Federal Oil and Gas Royalty Management Act of 1982, as added by section 9518 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995.''.

SEC. 9523. PERFORMANCE STANDARD.

Section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719) is amended in subsections (c) and (d), by striking ''knowingly or willfully'' and inserting ''by willful misconduct or gross negligence'' each place it appears.

SEC. 9524. INDIAN LANDS.

The amendments made by this part shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall continue to apply after such date with respect to Indian lands.

SEC. 9525. PRIVATE LANDS.

This part shall not apply to any privately owned minerals.

SEC. 9526. EFFECTIVE DATE.

Except as provided by section 115(e), section 111(h), section 111(k)(5), and section 116 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this part), this part, and the amendments made by this part, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

Subtitle F—Indian Gaming

SEC. 9601. INDIAN GAMING.

(a) COMMISSION FUNDING.—Section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)) is amended by striking out ''$1,500,000'' each place it appears and inserting in lieu thereof ''$2,500,000''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2718(a)) is amended by striking out all after ''(a)'' and inserting in lieu thereof the following: ''Notwithstanding the provisions of section 18, no funds may be authorized to be appropriated for the operation of the Commission.''.

Subtitle G—Consultation

SEC. 9701. CONSULTATION.

Section 7(d) of the Endangered Species Act of 1973 (16 U.S.C. 1536(d)) is amended to read as follows:

''(d) LIMITATION ON COMMITMENT OF RESOURCES.—After initiation of consultation required under subsection (a)(2) of this section, the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2) of this section. This limitation on the commitment of resources is only applicable to consultations regarding site-specific projects and activities, and shall not apply to any consultation regarding an agency's periodic or long-term planning activities, mission or policy statements, programmatic documents, or general policies, regulations, or activities, whether or not such consultation has previously been initiated pursuant to a court order, and regardless of the date on which consultation was ordered or initiated.''.

Subtitle H—Mapping

SEC. 9801. SHORT TITLE.

This subtitle may be cited as the ''Department of the Interior Surveying and Mapping Efficiency and Economic Opportunity Act of 1995''.

SEC. 9802. SURVEYING AND MAPPING CONTRACTING PROGRAM.

In order to provide private firms, including small and small disadvantaged businesses, ample opportunities to provide quality services to the Department of the Interior (hereinafter referred to as the ''Department''), the Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall conduct a surveying and mapping contracting program.

SEC. 9803. INVENTORY OF ACTIVITIES.

(a) PUBLICATION OF INVENTORY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, the Administrator of the Small Business Administration and the trade association of private surveying and mapping firms, shall publish an inventory of surveying and mapping activities in the Department of the Interior for the last fiscal year completed prior to the date of enactment of this Act.

(b) ITEMS INCLUDED.—The inventory shall include each of the following:

(1) The total dollar value of surveying and mapping activities in each agency of the Department.

(2) The total dollar value of surveying and mapping activities in each agency of the Department performed by contract with private sector firms.

(3) The total dollar value of surveying and mapping activities in each agency of the Department performed by personnel of the Department.

(4) The total dollar value of surveying and mapping activities in each agency of the Department performed for any other department or agency of the Federal Government.

(5) The total dollar value of surveying and mapping activities in each agency of the Department performed for any State or political subdivision thereof, or for any foreign government.

(6) The total number of personnel involved in surveying and mapping activities in each agency of the Department.

SEC. 9804. PLAN TO INCREASE USE OF CONTRACTS.

(a) ESTABLISHMENT.—Based on the inventory conducted pursuant to section 9803 of this Act, not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, the Administrator of the Small Business Administration and the trade association of private surveying and mapping firms, shall develop and implement a plan to increase the use of contracts with private firms for surveying and mapping services.

(b) ITEMS INCLUDED IN PLAN.—The plan established pursuant to subsection (a) of this section shall include, but not be limited to each of the following:

(1) A reduction of surveying and mapping activities by personnel in the Department that duplicate capabilities available by contract from the private sector.

(2) A reduction of acquisition and maintenance of surveying and mapping equipment that duplicate capabilities and capital investment already made by the private sector.

(3) The elimination of unfair Government competition in activities in which the Department uses its personnel to perform surveying and mapping for which it shares the cost with, is reimbursed for, or makes a grant to any other agency of the Federal Government, a State or political subdivision thereof, or a foreign government, for such activities, when such activities can be obtained by contract from the private sector.

(4) The use of contracts to perform surveying and mapping requirements of the Department created through attrition.

(5) The enhancement of the leadership role of the Department of the Interior in—

(A) the preparation of standards and specifications;

(B) research in surveying and mapping instrumentation and procedures, and the prompt transfer of technology to the private sector;

(C) providing technical guidance, coordination, cost sharing, cooperative efforts and administration in the use of Federal funds for surveying and mapping activities, and the development of geographic information systems, that are performed by the private sector by the contract to Federal, State, and local government agencies;

(D) establishing a schedule with quantifiable goals for increasing the use of contracts with private sector for current and future surveying and mapping activities; and

(E) using Department personnel to perform only those surveying and mapping activities that are inherently governmental in nature, necessary to keep current the skills of such personnel for evaluating contractor performance and administering contracts, and to perform basic research.

SEC. 9805. REPORTS.

The Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on implementation of the program not later than January 15 of each year.

SEC. 9806. DEFINITIONS.

As used in this subtitle:

(1) The term ''surveying and mapping'' means collecting, storing, retrieving, or disseminating graphical or digital data depicting natural or man-made physical features, phenomena and boundaries of the earth and any information related thereto, including but not limited to data shown on or in relation to surveys, maps, and charts.

(2) The ''contract'' means an instrument to retain private firms with licensed, certified, or otherwise qualified professionals in such fields as surveying, photogrammetry, cartography, and geodesy, which shall be awarded in accordance with the selection procedures in title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 and following).

TITLE X—COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Subtitle A—Water Resources

SEC. 10001. COMMERCIAL CONCESSIONS AT CORPS OF ENGINEERS PROJECTS.

Notwithstanding part 1 of subtitle C of title IX of this Act, the Secretary of the Army shall not modify any concession service agreement, concession license, or similar instrument (or any policy or procedure relating to such agreement, license, or agreement) except to the extent that such modification is permitted under laws in effect on the day before the date of the enactment of this Act.

SEC. 10002. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner which reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) AMOUNT OF FEES.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

(e) EXPIRATION OF AUTHORITY.—The authority of the Director to assess and collect fees under subsection (a) shall expire on September 30, 2002.

Subtitle B—Ocean Shipping Reform

SEC. 10201. SHORT TITLE.

This subtitle may be cited as the ''Ocean Shipping Reform Act of 1995''.

CHAPTER 1—OCEAN SHIPPING REFORM

SEC. 10211. PURPOSES.

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by adding at the end the following:

''(4) to permit carriers and shippers to develop transportation arrangements to meet their specific needs.''.

SEC. 10212. DEFINITIONS.

Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) effective January 1, 1997—

(A) by striking paragraph (9); and

(B) by redesignating paragraphs (10) through (19) as paragraphs (9) through (18), respectively; and

(2) effective June 1, 1997—

(A) by striking paragraph (4);

(B) in paragraph (7) by striking ''a common tariff;'' and inserting ''a common schedule of transportation rates, charges, classifications, rules, and practices;'';

(C) by striking paragraph (10) (as redesignated by paragraph (1) of this section);

(D) by striking paragraph (13) (as redesignated by paragraph (1) of this section);

(E) by striking paragraph (16) (as redesignated by paragraph (1) of this section);

(F) by striking paragraph (18) (as redesignated by paragraph (1) of this section) and inserting the following:

''(18) 'ocean freight forwarder' means a person that—

''(A)(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; or

''(ii) processes the documentation or performs related activities incident to those shipments; or

''(B) acts as a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.'';

(G) by striking paragraph (21);

(H) in paragraph (23)—

(i) by striking ''or'' the second place it appears and inserting a comma; and

(ii) by striking the period and inserting '', a shippers' association, or an ocean freight forwarder that accepts responsibility for payment of the ocean freight.'';

(I) by striking paragraph (24) and inserting the following:

''(24) 'shippers' association' means a group of shippers that consolidates or distributes freight, on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or ocean transportation contracts.''; and

(J) by inserting after paragraph (18) (as redesignated by paragraph (1) of this section) the following:

''(19) 'ocean transportation contract' means a contract in writing separate from the bill of lading or receipt between 1 or more common carriers or a conference and 1 or more shippers to provide specified services under specified rates and conditions.''.

SEC. 10213. AGREEMENTS WITHIN THE SCOPE OF THE ACT.

Effective June 1, 1997, section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended—

(1) in paragraph (5) by striking ''non-vessel-operating common carriers'' and inserting ''ocean freight forwarders''; and

(2) by striking paragraph (7) and inserting the following:

''(7) discuss any matter related to ocean transportation contracts, and enter ocean transportation contracts and agreements related to those contracts.''.

SEC. 10214. AGREEMENTS.

Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended—

(1) effective January 1, 1997—

(A) in subsection (b)(4) by striking ''at the request of any member, require an independent neutral body to police fully'' and inserting ''state the provisions, if any, for the policing of'';

(B) in subsection (b)(7) by striking ''and'' at the end;

(C) in subsection (b)(8) by striking the period and inserting ''; and''; and

(D) by adding at the end of subsection (b) the following:

''(9) provide that a member of the conference may enter individual and independent negotiations and may conclude individual and independent service contracts under section 8 of this Act.'';

(2) effective June 1, 1997—

(A) by striking subsection (b)(8) and inserting the following:

''(8) provide that any member of the conference may take independent action on any rate or service item agreed upon by the conference for transportation provided under section 8(a) of this Act upon not more than 3 business days' notice to the conference, and that the conference will provide the new rate or service item for use by that member, effective no later than 3 business days after receipt of that notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference provision for that rate or service item;'';

(B) in subsection (b)(9) by striking ''service'' and inserting ''ocean transportation'' and by striking the period at the end and inserting ''; and'';

(C) by adding at the end of subsection (b) the following:

''(10) prohibit the conference from—

''(A) prohibiting or restricting the members of the conference from engaging in individual negotiations for ocean transportation contracts under section 8(b) with 1 or more shippers; and

''(B) issuing mandatory rules or requirements affecting ocean transportation contracts that may be entered by 1 or more members of the conference, except that a conference may require that a member of the conference disclose the existence of an existing individual ocean transportation contract or negotiations on an ocean transportation contract, when the conference enters negotiations on an ocean transportation contract with the same shipper.''; and

(D) in subsection (e) by striking ''carrier that are required to be set forth in a tariff,'' and inserting ''carrier,''.

SEC. 10215. EXEMPTION FROM ANTITRUST LAWS.

Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended—

(1) by striking subsection (a)(6) and inserting the following:

''(6) subject to section 20(e)(2) of this Act, any agreement, modification, or cancellation, in effect before the effective date of this Act and any tariff, rate, fare, charge, classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.''; and

(2) in subsection (c)(1) by striking ''agency'' and inserting ''agency, department,''.

SEC. 10216. COMMON AND CONTRACT CARRIAGE.

(a) IN GENERAL.—Effective June 1, 1997—

(1) section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed; and

(2) section 8 of the Shipping Act of 1984 (46 U.S.C. App. 1707) is amended to read as follows:

''SEC. 8. COMMON AND CONTRACT CARRIAGE.

''(a) COMMON CARRIAGE.—

''(1) A common carrier and a conference shall make available a schedule of transportation rates which shall include the rates, terms, and conditions for transportation services not governed by an ocean transportation contract, and shall provide the schedule of transportation rates, in writing, upon the request of any person. A common carrier and a conference may assess a reasonable charge for complying with a request for a rate, term, and condition, except that the charge may not exceed the cost of providing the information requested.

''(2) A dispute between a common carrier or conference and a person as to the applicability of the rates, terms, and conditions for ocean transportation services shall be decided in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

''(3) A claim concerning a rate for ocean transportation services which involves false billing, false classification, false weighing, false report of weight, or false measurement shall be decided in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

''(b) CONTRACT CARRIAGE.—

''(1) 1 or more common carriers or a conference may enter into an ocean transportation contract with 1 or more shippers. A common carrier may enter into ocean transportation contracts without limitations concerning the number of ocean transportation contracts or the amount of cargo or space involved. The status of a common carrier as an ocean common carrier is not affected by the number or terms of ocean transportation contracts entered.

''(2) A party to an ocean transportation contract entered under this section shall have no duty in connection with services provided under the contract other than the duties specified by the terms of the contract.

''(3)(A) An ocean transportation contract or the transportation provided under that contract may not be challenged in any court on the grounds that the contract violates a provision of this Act.

''(B) The exclusive remedy for an alleged breach of an ocean transportation contract is an action in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

''(4) The requirements and prohibitions concerning contracting by conferences contained in sections 5(b) (9) and (10) of this Act shall also apply to any agreement among one or more ocean common carriers that is filed under section 5(a) of this Act.''.

(b) CONFIDENTIALITY OF CONTRACTS.—Effective January 1, 1998, section 8(b) of the Shipping Act of 1984 (46 U.S.C. App. 1707(b)), as amended by subsection (a) of this section, is amended by adding at the end the following:

''(5) A contract entered under this section may be made on a confidential basis, upon agreement of the parties. An ocean common carrier that is a member of a conference agreement may not be prohibited or restricted from agreeing with 1 or more shippers that the parties to the contract will not disclose the rates, services, terms, or conditions of that contract to any other member of the agreement, to the conference, to any other carrier, shipper, conference, or to any other third party.''.

SEC. 10217. PROHIBITED ACTS.

Section 10 of the Shipping Act of 1984 (46 U.S.C. App. 1709) is amended—

(1) effective January 1, 1997, in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) except for service contracts, subject a person, place, port, or shipper to unreasonable discrimination;''; and

(B) by striking paragraphs (2), (3), (4), and (8);

(2) effective June 1, 1997, by striking subsection (b) and inserting the following:

''(b) COMMON CARRIERS.—No common carrier, either alone or in conjunction with any other person, directly or indirectly, may—

''(1) except for ocean transportation contracts, subject a person, place, port, or shipper to unreasonable discrimination;

''(2) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier or has filed a complaint, or for any other reason;

''(3) employ any fighting ship;

''(4) subject any particular person, locality, class, or type of shipper or description of traffic to an unreasonable refusal to deal;

''(5) refuse to negotiate with a shippers' association;

''(6) knowingly and willfully accept cargo from or transport cargo for the account of an ocean freight forwarder that does not have a bond, insurance, or other surety as required by section 19;

''(7) knowingly and willfully enter into an ocean transportation contract with an ocean

freight forwarder or in which an ocean freight forwarder is listed as an affiliate that does not have a bond, insurance, or other surety as required by section 19; or

''(8)(A) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier without the consent of the shipper or consignee if that information—

''(i) may be used to the detriment or prejudice of the shipper or consignee;

''(ii) may improperly disclose its business transaction to a competitor; or

''(iii) may be used to the detriment or prejudice of any common carrier;

except that nothing in this paragraph shall be construed to prevent providing the information, in response to legal process, to the United States, or to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier that is a party to a conference agreement approved under this Act, or any receiver, trustee, lessee, agent, or employee of that carrier, or any other person authorized by that carrier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with a conference or for the purpose of determining whether a member of the conference has breached the conference agreement or for the purpose of compiling statistics of cargo movement, but the use of that information for any other purpose prohibited by this Act or any other Act is prohibited; and

''(B) after December 31, 1997, the rates, services, terms, and conditions of an ocean transportation contract may not be disclosed under this paragraph if the contract has been made on a confidential basis under section 8(b) of this Act.

The exclusive remedy for a disclosure under this paragraph shall be an action for breach of contract as provided in section 8(b)(3) of this Act.'';

(3) effective June 1, 1997—

(A) by striking subsection (c)(1) and inserting the following:

''(1) boycott, take any concerted action resulting in an unreasonable refusal to deal, or implement a policy or practice that results in an unreasonable refusal to deal;'';

(B) in subsection (c)(5) by inserting ''as defined in section 3(14)(A) of this Act'' after ''freight forwarder''; and

(C) in subsection (c)(6) by striking ''a service contract.'' and inserting ''an ocean transportation contract.''; and

(4) effective June 1, 1997, in subsection (d)(3) by striking ''subsection (b) (11), (12), and (16)'' and inserting ''paragraphs (1), (4), and (8) of subsection (b)''.

SEC. 10218. REPARATIONS.

Effective June 1, 1997, section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended—

(1) by inserting ''or counter-complainant'' after ''complainant'' the second place it appears;

(2) by striking ''10(b) (5) or (7)'' and inserting ''10(b) (2) or (3)''; and

(3) by striking the last sentence.

SEC. 10219. FOREIGN LAWS AND PRACTICES.

Effective on June 1, 1997, section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended—

(1) in subsection (a)(1)—

(A) by striking '''non-vessel-operating common carrier',''; and

(B) by inserting '''ocean freight forwarder','' after '''ocean common carrier','';

(2) in subsection (a)(4) by striking ''non-vessel-operating common carrier operations,'';

(3) in subsection (e)(1) by striking subparagraphs (B), (C), and (D) and inserting the following:

''(B) suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Secretary, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers; and

''(C) a fee, not to exceed $1,000,000 per voyage.''; and

(4) in subsection (h) by striking ''section 13(b)(5) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)(5))'' and inserting ''section 13(b)(2) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)(2))''.

SEC. 10220. PENALTIES.

Effective June 1, 1997, section 13 of the Shipping Act of 1984 (46 U.S.C. App. 1712) is amended—

(1) in subsection (b)—

(A) by striking paragraphs (1) and (3) and redesignating paragraphs (2), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively;

(B) by striking paragraph (1), as so redesignated, and inserting the following:

''(1) If the Secretary finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Secretary may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Secretary, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).''; and

(C) in paragraph (3), as so redesignated, by striking ''finds appropriate,'' and all that follows through the period at the end and inserting ''finds appropriate including the imposition of the penalties authorized under paragraph (2).''; and

(2) in subsection (f)(1) by striking ''section 10 (a)(1), (b)(1), or (b)(4)'' and inserting ''section 10(a)(1)''.

SEC. 10221. REPORTS.

(a) IN GENERAL.—Effective January 1, 1997, section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended—

(1) in the section heading by striking ''**and certificates**'';

(2) by striking ''(a) REPORTS.—''; and

(3) by striking subsection (b).

(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by striking the item relating to section 15 and inserting the following:

''Sec. 15. Reports.''.

SEC. 10222. REGULATIONS.

Section 17 of the Shipping Act of 1984 (46 U.S.C. App. 1716) is amended—

(1) by striking ''(a)''; and

(2) by striking subsection (b).

SEC. 10223. REPEAL.

(a) REPEAL.—Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by striking the item relating to section 18.

SEC. 10224. OCEAN FREIGHT FORWARDERS.

Effective June 1, 1997, section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) LICENSE.—No person in the United States may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person that the Commission determines to be qualified by experience and character to render forwarding services.'';

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) by inserting after subsection (a) the following:

''(b) FINANCIAL RESPONSIBILITY.—

''(1) No person may act as an ocean freight forwarder unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

''(2) A bond, insurance, or other surety obtained pursuant to this section shall be available to pay any judgment for damages against an ocean freight forwarder arising from its transportation-related activities under this Act or order for reparation issued pursuant to section 11 or 14 of this Act.

''(3) An ocean freight forwarder not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.'';

(4) in subsection (c), as redesignated by paragraph (2) of this section, by striking ''a bond in accordance with subsection (a)(2)'' and inserting ''a bond, proof of insurance, or other surety in accordance with subsection (b)(1)''; and

(5) in subsection (e), as redesignated by paragraph (2) of this section—

(A) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(B) by adding at the end the following:

''(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, may—

''(A) deny to any member of the conference or group the right, upon notice of not more than 3 business days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

''(B) agree to limit the payment of compensation to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a common schedule of transportation rates provided under section 8(a) of this Act, and which are assessed against the cargo on which the forwarding services are provided.''.

SEC. 10225. EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.

Section 20(e) of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended to read as follows:

''(e) SAVINGS PROVISIONS.—

''(1) Each service contract entered into by a shipper and an ocean common carrier or conference before the date of the enactment of the Ocean Shipping Reform Act of 1995 may remain in full force and effect according to its terms.

''(2) This Act and the amendments made by this Act shall not affect any suit—

''(A) filed before the date of the enactment of the Ocean Shipping Reform Act of 1995;

''(B) with respect to claims arising out of conduct engaged in before the date of the enactment of the Ocean Shipping Reform Act of 1995, filed within 1 year after the date of the enactment of the Ocean Shipping Reform Act of 1995;

''(C) with respect to claims arising out of conduct engaged in after the date of the enactment of the Ocean Shipping Reform Act of 1995 but before January 1, 1997, pertaining to a violation of section 10(b) (1), (2), (3), (4), or (8), as in effect before January 1, 1997, filed by June 1, 1997;

''(D) with respect to claims pertaining to the failure of a common carrier or conference to file its tariffs or service contracts in accordance with this Act in the period beginning January 1, 1997, and ending June 1, 1997, filed by December 31, 1997; or

''(E) with respect to claims arising out of conduct engaged in on or after the date of the enactment of the Ocean Shipping Reform Act of 1995 but before June 1, 1997, filed by December 31, 1997.''.

SEC. 10226. REPEAL.

(a) REPEAL.—Effective June 1, 1997, section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

(b) CLERICAL AMENDMENT.—Effective June 1, 1997, the table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by striking the item relating to section 23.

SEC. 10227. MARINE TERMINAL OPERATOR SCHEDULES.

(a) IN GENERAL.—Effective June 1, 1997, the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.) is amended by adding at the end the following:

''SEC. 24. MARINE TERMINAL OPERATOR SCHEDULES.

''A marine terminal operator shall make available to the public a schedule of rates, regulations, and practices, including limitations of liability, pertaining to receiving, delivering, handling, or storing property at its marine terminal. The schedule shall be enforceable as an implied contract, without proof of actual knowledge of its provisions, for any activity by the marine terminal operator that is taken to—

''(1) efficiently transfer property between transportation modes;

''(2) protect property from damage or loss;

''(3) comply with any governmental requirement; or

''(4) store property in excess of the terms of any other contract or agreement, if any, entered into by the marine terminal operator.''.

(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by adding at the end the following:

''Sec. 24. Marine terminal operator schedules.''.

CHAPTER 2—CONTROLLED CARRIERS AMENDMENTS

SEC. 10231. CONTROLLED CARRIERS.

Effective June 1, 1997, section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended—

(1)(A) in the first sentence of subsection (a)—

(i) by striking ''in its tariffs or service contracts filed with the Commission''; and

(ii) by striking ''in those tariffs or service contracts''; and

(B) in the last sentence of subsection (a) by striking ''filed by a controlled carrier'';

(2) in paragraphs (1) and (2) of subsection (b) by striking ''filed'' and inserting ''published'';

(3) in subsection (c) by striking the first sentence;

(4) by striking subsection (d) and inserting the following:

''(d) Within 120 days of the receipt of information requested by the Secretary under this section, the Secretary shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable. If so, the Secretary shall issue an order to the controlled carrier to show cause why those rates, charges, classifications, rules, or regulations should not be approved. Pending a determination, the Secretary may suspend the rates, charges, classifications, rules, or regulations at any time. No period of suspension may be greater than 180 days. Whenever the Secretary has suspended any rates, charges, classifications, rules, or regulations under this subsection, the affected carrier may publish and, after notification to the Secretary, assess new rates, charges, classifications, rules, or regulations—except that the Secretary may reject the new rates, charges, classifications, rules, or regulations if the Secretary determines that they are unreasonable.'';

(5) in subsection (f) by striking ''This'' and inserting ''Subject to subsection (g), this''; and

(6) by adding at the end the following:

''(g) The rate standards, information submissions, remedies, reviews, and penalties in this section shall also apply to ocean common carriers that are not controlled, but who have been determined by the Secretary to be structurally or financially affiliated with nontransportation entities or organizations (government or private) in such a way as to affect their pricing or marketplace behavior in an unfair, predatory, or anticompetitive way that disadvantages an ocean common carrier or carriers. The Secretary may make such determinations upon request of any person or upon the Secretary's own motion, after conducting an investigation and a public hearing.

''(h) The Secretary shall issue regulations by June 1, 1997, that prescribe the procedures and requirements that would govern how price and other information is to be submitted by controlled carriers and carriers subject to determinations made under subsection (g) when such information would be needed to determine whether prices charged by these carriers are unfair, predatory, or anticompetitive.

''(i) In any instance where information provided to the Secretary under this section does not result in an affirmative finding or enforcement action by the Secretary that information may not be made public and shall be exempt from disclosure under section 552 of title 5, United States Code, except as may be relevant to an administrative or judicial action or proceeding. This section does not prevent disclosure to either body of Congress or to a duly authorized committee or subcommittee of Congress.''.

SEC. 10232. NEGOTIATING STRATEGY TO REDUCE GOVERNMENT OWNERSHIP AND CONTROL OF COMMON CARRIERS.

Not later than January 1, 1997, the Secretary of Transportation shall develop, submit to Congress, and begin implementing a negotiation strategy to persuade foreign governments to divest themselves of ownership and control of ocean common carriers (as that term is defined in section 3(18) of the Shipping Act of 1984 (46 U.S.C. App. 1702).

SEC. 10233. ANNUAL REPORT BY THE SECRETARY.

Not later than September 30, 1998, and annually thereafter, the Secretary shall report to Congress on the actions taken under the Foreign Shipping Practices Act (46 U.S.C. App. 1708), section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708), and section 10232 of this Act and the effect on United States maritime employment of laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country that result in the existence of conditions that adversely affect the operations of United States carriers in United States oceanborne trade.

CHAPTER 3—ELIMINATION OF THE FEDERAL MARITIME COMMISSION

SEC. 10241. PLAN FOR AGENCY TERMINATION.

(a) IN GENERAL.—No later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Secretary of Transportation, shall submit to Congress a plan to eliminate the Federal Maritime Commission no later than October 1, 1997. The plan shall include a timetable for the transfer of remaining functions of the Federal Maritime Commission to the Secretary of Transportation beginning as soon as feasible in fiscal year 1996. The plan shall also address matters related to personnel and other resources necessary for the Secretary of Transportation to perform the remaining functions of the Federal Maritime Commission.

(b) IMPLEMENTATION.—The Director of the Office of Management and Budget shall implement the plan to eliminate the Federal Maritime Commission submitted to Congress under subsection (a) beginning as soon as feasible in fiscal year 1996.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle.

Subtitle C—Midewin National Tallgrass Prairie

CHAPTER 1—GENERAL PROVISIONS

SEC. 10301. SHORT TITLE.

This subtitle may be cited as the ''Illinois Land Conservation Act of 1995''.

SEC. 10302. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the United States Environmental Protection Agency.

(2) AGRICULTURAL PURPOSES.—The term ''agricultural purposes'' means the use of land for row crops, pasture, hay, and grazing.

(3) ARSENAL.—The term ''Arsenal'' means the Joliet Army Ammunition Plant located in the State of Illinois.

(4) CERCLA.—The term ''CERCLA'' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(5) DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—The term ''Defense Environmental Restoration Program'' means the program of environmental restoration for defense installations established by the Secretary of Defense under section 2701 of title 10, United States Code.

(6) ENVIRONMENTAL LAW.—The term ''environmental law'' means all applicable Federal, State, and local laws, regulations, and requirements related to protection of human health, natural and cultural resources, or the environment, including CERCLA, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), and the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(7) HAZARDOUS WASTE.—The term ''hazardous substance'' has the meaning given such term by section 101(14) of CERCLA (42 U.S.C. 9601(14)).

(8) MNP.—The term ''MNP'' means the Midewin National Tallgrass Prairie established pursuant to section 10314 and managed as a part of the National Forest System.

(9) NATIONAL CEMETERY.—The term ''national cemetery'' means a cemetery established and operated as part of the National Cemetery System of the Department of Veterans Affairs and subject to the provisions of chapter 24 of title 38, United States Code.

(10) PERSON.—The term ''person'' has the meaning given such term by section 101(21) of CERCLA (42 U.S.C. 9601(21)).

(11) POLLUTANT OR CONTAMINANT.—The term ''pollutant or contaminant'' has the meaning given such term by section 101(33) of CERCLA (42 U.S.C. 9601(33)).

(12) RELEASE.—The term ''release'' has the meaning given such term by section 101(22) of CERCLA (42 U.S.C. 9601(22)).

(13) RESPONSE ACTION.—The term ''response action'' has the meaning given the term ''response'' by section 101(25) of CERCLA (42 U.S.C. 9601(25)).

CHAPTER 2—CONVERSION OF JOLIET ARMY AMMUNITION PLANT TO MIDEWIN NATIONAL TALLGRASS PRAIRIE

SEC. 10311. PRINCIPLES OF TRANSFER.

(a) LAND USE PLAN.—The Congress ratifies in principle the proposals generally identified by the land use plan which was developed by the Joliet Arsenal Citizen Planning Commission and unanimously approved on May 30, 1995.

(b) TRANSFER WITHOUT REIMBURSEMENT.—The area constituting the Midewin National Tallgrass Prairie shall be transferred, without reimbursement, to the Secretary of Agriculture.

(c) MANAGEMENT OF MNP.—Management by the Secretary of Agriculture of those portions of the Arsenal transferred to the Secretary under this subtitle shall be in accordance with sections 10314 and 10315 regarding the Midewin National Tallgrass Prairie.

(d) SECURITY MEASURES.—The Secretary of the Army and the Secretary of Agriculture shall each provide and maintain physical and other security measures on such portion of the Arsenal as is under the administrative jurisdiction of such Secretary. Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to such portions of the Arsenal as are under the administrative jurisdiction of such Secretary and that may endanger health or safety.

(e) COOPERATIVE AGREEMENTS.—The Secretary of the Army, the Secretary of Agriculture, and the Administrator are individually and collectively authorized to enter into cooperative agreements and memoranda of understanding among each other and with other affected Federal agencies, State and local governments, private organizations, and corporations to carry out the purposes for which the Midewin National Tallgrass Prairie is established.

(f) INTERIM ACTIVITIES OF THE SECRETARY OF AGRICULTURE.—Prior to transfer and subject to such reasonable terms and conditions as the Secretary of the Army may prescribe, the Secretary of Agriculture may enter upon the Arsenal property for purposes related to planning, resource inventory, fish and wildlife habitat manipulation (which may include prescribed burning), and other such activities consistent with the purposes for which the Midewin National Tallgrass Prairie is established.

SEC. 10312. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER ARSENAL.

(a) INITIAL TRANSFER OF JURISDICTION.—Within 6 months after the date of the enactment of this Act, the Secretary of the Army shall effect the transfer of those portions of the Arsenal property identified for transfer to the Secretary of Agriculture pursuant to subsection (d). The Secretary of the Army shall transfer to the Secretary of Agriculture only those portions of the Arsenal for which the Secretary of the Army and the Administrator concur that no further action is required under any environmental law and which therefore have been eliminated from the areas to be further studied pursuant to the Defense Environmental Restoration Program for the Arsenal. Within 4 months after the date of the enactment of this Act, the Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all existing documentation supporting such finding and all existing information relating to the environmental conditions of the portions of the Arsenal to be transferred to the Secretary of Agriculture pursuant to this subsection.

(b) ADDITIONAL TRANSFERS.—The Secretary of the Army shall transfer to the Secretary of Agriculture in accordance with section 10316(c) any portion of the property generally identified in subsection (d) and not transferred under subsection (a) after the Secretary of the Army and the Administrator concur that no further action is required at that portion of property under any environmental law and that such portion is therefore eliminated from the areas to be further studied pursuant to the Defense Environmental Restoration Program for the Arsenal. At least 2 months before any transfer under this subsection, the Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all existing documentation supporting such finding and all existing information relating to the environmental conditions of the portion of the Arsenal to be transferred. Transfer of jurisdiction pursuant to this subsection may be accomplished on a parcel-by-parcel basis.

(c) EFFECT ON CONTINUED RESPONSIBILITIES AND LIABILITY OF SECRETARY OF THE ARMY.—Subsections (a) and (b), and their requirements, shall not in any way affect the responsibilities and liabilities of the Secretary of the Army specified in section 10313.

(d) IDENTIFICATION OF PORTIONS FOR TRANSFER FOR MNP.—The lands to be transferred to the Secretary of Agriculture under subsections (a) and (b) shall be identified on a map or maps which shall be agreed to by the Secretary of the Army and the Secretary of Agriculture. Generally, the land to be transferred to the Secretary of Agriculture shall be all the real property and improvements comprising the Arsenal, except for lands and facilities described in subsection (e) or designated for transfer or disposal under section 10316 or chapter 3.

(e) PROPERTY USED FOR ENVIRONMENTAL CLEANUP.—

(1) RETENTION.—The Secretary of the Army shall retain jurisdiction, authority, and control over real property at the Arsenal to be used for—

(A) water treatment;

(B) the treatment, storage, or disposal of any hazardous substance, pollutant or contaminant, hazardous material, or petroleum products or their derivatives;

(C) other purposes related to any response action at the Arsenal; and

(D) other actions required at the Arsenal under any environmental law to remediate contamination or conditions of noncompliance with any environmental law.

(2) CONDITIONS.—The Secretary of the Army shall consult with the Secretary of Agriculture regarding the identification and management of the real property retained under this subsection and ensure that activities carried out on that property are consistent, to the extent practicable, with the purposes for which the Midewin National Tallgrass Prairie is established, as specified in section 10314(c), and with the other provisions of sections 10314 and 10315.

(3) PRIORITY OF RESPONSE ACTIONS.—In the case of any conflict between management of the property by the Secretary of Agriculture and any response action, or any other action required under any other environmental law, including actions to remediate petroleum products of their derivatives, the response action or other action shall take priority.

(f) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of Arsenal property from the Secretary of the Army to the Secretary of Agriculture shall be borne by the Secretary of Agriculture.

SEC. 10313. CONTINUATION OF RESPONSIBILITY AND LIABILITY OF SECRETARY OF THE ARMY FOR ENVIRONMENTAL CLEANUP.

(a) RESPONSIBILITY.—The liabilities and responsibilities of the Secretary of the Army under any environmental law shall not transfer under any circumstances to the Secretary of Agriculture as a result of the property transfers made under section 10312 or section 10316, or as a result of interim activities of the Secretary of Agriculture on Arsenal property under section 10311(f). With respect to the real property at the Arsenal, the Secretary of the Army shall remain liable for and continue to carry out—

(1) all response actions required under CERCLA at or related to the property;

(2) all remediation actions required under any other environmental law at or related to the property; and

(3) all actions required under any other environmental law to remediate petroleum products or their derivatives (including motor oil and aviation fuel) at or related to the property.

(b) LIABILITY.—

(1) IN GENERAL.—Nothing in this Act shall be construed to effect, modify, amend, repeal, alter, limit, or otherwise change, directly or indirectly, the responsibilities or liabilities under any environmental law of any person (including the Secretary of Agriculture), except as provided in paragraph (3) with respect to the Secretary of Agriculture.

(2) LIABILITY OF SECRETARY OF THE ARMY.—The Secretary of the Army shall retain any obligation or other liability at the Arsenal that the Secretary may have under CERCLA and other environmental laws. Following transfer of any portions of the Arsenal pursuant to this Act, the Secretary of the Army shall be accorded all easements and access to such property as may be reasonably required to carry out such obligation or satisfy such liability.

(3) SPECIAL RULES FOR SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall not be responsible or liable under any environmental law for matters which are in any way related directly or indirectly to activities of the Secretary of the Army, or any party acting under the authority of the Secretary in connection with the Defense Environmental Restoration Program, at the Arsenal and which are for any of the following:

(A) Costs of response actions required under CERCLA at or related to the Arsenal.

(B) Costs, penalties, or fines related to noncompliance with any environmental law at or related to the Arsenal or related to the presence, release, or threat of release of any hazardous substance, pollutant, contaminant, hazardous waste or hazardous material of any kind at or related to the Arsenal, including contamination resulting from migration of hazardous substances, pollutants, contaminants, hazardous materials, or petroleum products or their derivatives disposed during activities of the Department of the Army.

(C) Costs of actions necessary to remedy such noncompliance or other problem specified in subparagraph (B).

(c) PAYMENT OF RESPONSE ACTION COSTS.—Any Federal department or agency that had or has operations at the Arsenal resulting in the release or threatened release of hazardous substances, pollutants, or contaminants shall pay the cost of related response actions, or related actions under other environmental laws, including actions to remediate petroleum products or their derivatives.

(d) CONSULTATION.—The Secretary of Agriculture shall consult with the Secretary of the Army with respect to the Secretary of Agriculture's management of real property included in the Midewin National Tallgrass Prairie subject to any response action or other action at the Arsenal being carried out by or under the authority of the Secretary of the Army under any environmental law. The Secretary of Agriculture shall consult with the Secretary of the Army prior to undertaking any activities on the Midewin National Tallgrass Prairie that may disturb the property to ensure that such activities will not exacerbate contamination problems or interfere with performance by the Secretary of the Army of response actions at the property. In carrying out response actions at the Arsenal, the Secretary of the Army shall consult with the Secretary of Agriculture to ensure that such actions are carried out in a manner consistent with the purposes for which the Midewin National Tallgrass Prairie is established, as specified in section 10314(c), and the other provisions of sections 10314 and 10315.

SEC. 10314. ESTABLISHMENT AND ADMINISTRATION OF MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) ESTABLISHMENT.—On the effective date of the initial transfer of jurisdiction of portions of the Arsenal to the Secretary of Agriculture under section 10312(a), the Secretary of Agriculture shall establish the Midewin National Tallgrass Prairie. The MNP shall—

(1) be administered by the Secretary of Agriculture; and

(2) consist of the real property so transferred and such other portions of the Arsenal subsequently transferred under section 10312(b) or 10316.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall manage the Midewin National Tallgrass Prairie as a part of the National Forest System in accordance with this Act and the laws, rules, and regulations pertaining to the National Forest System, except that the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010–1012) shall not apply to the MNP.

(2) INITIAL MANAGEMENT ACTIVITIES.—In order to expedite the administration and public use of the Midewin National Tallgrass Prairie, the Secretary of Agriculture may conduct management activities at the MNP to effectuate the purposes for which the MNP is established, as specified in subsection (c), in advance of the development of a land and resource management plan for the MNP.

(3) LAND AND RESOURCE MANAGEMENT PLAN.—In developing a land and resource management plan for the Midewin National Tallgrass Prairie, the Secretary of Agriculture shall consult with the Illinois Department of Conservation and local governments adjacent to the MNP and provide an opportunity for public comment. Any parcel transferred to the Secretary of Agriculture under this Act after the development of a land and resource management plan for the MNP may be managed in accordance with such plan without need for an amendment to the plan.

(c) PURPOSES OF THE MIDEWIN NATIONAL TALLGRASS PRAIRIE.—The Midewin National Tallgrass Prairie is established to be managed for National Forest System purposes, including the following:

(1) To manage the land and water resources of the MNP in a manner that will conserve and enhance the native populations and habitats of fish, wildlife, and plants.

(2) To provide opportunities for scientific, environmental, and land use education and research.

(3) To allow the continuation of agricultural uses of lands within the MNP consistent with section 10315(b).

(4) To provide a variety of recreation opportunities that are not inconsistent with the preceding purposes.

(d) OTHER LAND ACQUISITION FOR MNP.—

(1) LAND ACQUISITION FUNDS.—Notwithstanding section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), monies appropriated from the Land and Water Conservation Fund established under section 2 of such Act (16 U.S.C. 460l–5) shall be available for acquisition of lands and interests in land for inclusion in the Midewin National Tallgrass Prairie.

(2) ACQUISITION OF PRIVATE LANDS.—Acquisition of private lands for inclusion in the Midewin National Tallgrass Prairie shall be on a willing seller basis only.

(e) COOPERATION WITH STATES, LOCAL GOVERNMENTS AND OTHER ENTITIES.—In the management of the Midewin National Tallgrass Prairie, the Secretary of Agriculture is authorized and encouraged to cooperate with appropriate Federal, State, and local governmental agencies, private organizations and corporations. Such cooperation may include cooperative agreements as well as the exercise of the existing authorities of the Secretary under the Cooperative Forestry Assistance Act of 1978 and the Forest and Rangeland Renewable Resources Research Act of 1978. The objects of such cooperation may include public education, land and resource protection and cooperative management among government, corporate, and private landowners in a manner which furthers the purposes for which the Midewin National Tallgrass Prairie is established.

SEC. 10315. SPECIAL MANAGEMENT REQUIREMENTS FOR MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) PROHIBITION AGAINST THE CONSTRUCTION OF NEW THROUGH ROADS.—No new construction of any highway, public road, or any part of the interstate system, whether Federal, State, or local, shall be permitted through or across any portion of the Midewin National Tallgrass Prairie. Nothing herein shall preclude construction and maintenance of roads for use within the MNP or the granting of authorizations for utility rights-of-way under applicable Federal law or preclude such access as is necessary. Nothing herein shall preclude necessary access by the Secretary of the Army for purposes of restoration and cleanup as provided in this subtitle.

(b) AGRICULTURAL LEASES AND SPECIAL USE AUTHORIZATIONS.—Within the Midewin National Tallgrass Prairie, use of the lands for agricultural purposes shall be permitted subject to the following terms and conditions:

(1) If, at the time of transfer of jurisdiction under section 10312, there exists any lease issued by the Department of the Army, Department of Defense, or any other agency thereof, for agricultural purposes upon the parcel transferred, the Secretary of Agriculture, upon transfer of jurisdiction, shall convert the lease to a special use authorization, the terms of which shall be identical in substance to the lease that existed prior to the transfer, including the expiration date and any payments owed the United States.

(2) The Secretary of Agriculture may issue special use authorizations to persons for use of the Midewin National Tallgrass Prairie for agricultural purposes. Special use authorizations issued pursuant to this paragraph shall include terms and conditions as the Secretary of Agriculture may deem appropriate.

(3) No agricultural special use authorization shall be issued for agricultural purposes which has a term extending beyond the date 20 years from the date of the enactment of this Act, except that nothing in this Act shall preclude the Secretary of Agriculture from issuing agricultural special use authorizations or grazing permits which are effective after 20 years from the date of the enactment of this Act for purposes primarily related to erosion control, provision for food and habitat for fish and wildlife, or other resource management activities consistent with the purposes of the Midewin National Tallgrass Prairie.

(c) TREATMENT OF RENTAL FEES.—Monies received pursuant to subsection (b) shall be subject to distribution to the State of Illinois and affected counties pursuant to the Acts of May 23, 1908, and March 1, 1911 (16 U.S.C. 500). All such monies not distributed pursuant to such Acts shall be deposited into the Treasury and shall constitute a special fund, which shall be available to the Secretary of Agriculture, in such amounts as are provided in advance in appropriation Acts, to cover the cost to the United States of such prairie-improvement work as the Secretary may direct. Any portion of any deposit made to the fund which the Secretary determines to be in excess of the cost of doing such work shall be transferred, upon such determination, to miscellaneous receipts, Forest Service Fund, as a National Forest receipt of the fiscal year in which such transfer is made.

(d) USER FEES.—The Secretary of Agriculture is authorized to charge reasonable fees for the admission, occupancy, and use of the Midewin National Tallgrass Prairie and may prescribe a fee schedule providing for reduced, or a waiver of, fees for persons or groups engaged in authorized activities including those providing volunteer services, research, or education. The Secretary shall permit admission, occupancy, and use at no additional charge for persons possessing a valid Golden Eagle Passport or Golden Age Passport.

(e) SALVAGE OF IMPROVEMENTS.—The Secretary of Agriculture may sell for salvage value any facilities and improvements which have been transferred to the Secretary pursuant to this subtitle.

(f) TREATMENT OF USER FEES AND SALVAGE RECEIPTS.—Monies collected pursuant to subsections (d) and (e) shall be covered into the Treasury and constitute a special fund to be known as the Midewin National Tallgrass Prairie Restoration Fund. Deposits in the Midewin National Tallgrass Prairie Restoration Fund shall be available to the Secretary of Agriculture, in such amounts as are provided in advance in appropriation Acts, for restoration and administration of the Midewin National Tallgrass Prairie, including construction of a visitor and education center, restoration of ecosystems, construction of recreational facilities (such as trails), construction of administrative offices, and operation and maintenance of the MNP.

SEC. 10316. SPECIAL DISPOSAL RULES FOR CERTAIN ARSENAL PARCELS INTENDED FOR MNP.

(a) DESCRIPTION OF PARCELS.—Except as provided in subsection (b), the following areas are designated for transfer or disposal pursuant to subsection (c):

(1) Manufacturing Area—Study Area 1—Southern Ash Pile, Study Area 2—Explosive Burning Ground, Study Area 3—Flashing Grounds, Study Area 4—Lead Azide Area, Study Area 10—Toluene Tank Farms, Study Area 11—Landfill, Study Area 12—Sellite Manufacturing Area, Study Area 14—Former

Pond Area, Study Area 15—Sewage Treatment Plant.

(2) Load Assemble Packing Area—Group 61: Study Area L1, Explosive Burning Ground: Study Area L2, Demolition Area: Study Area L3, Landfill Area: Study Area L4, Salvage Yard: Study Area L5, Group 1: Study Area L7, Group 2: Study Area L8, Group 3: Study Area L9, Group 3A: Study Area L10, Group 4: Study Area L14, Group 5: Study Area L15, Group 8: Study Area L18, Group 9: Study Area L19, Group 27: Study Area L23, Group 62: Study Area L25, PVC Area: Study Area L33, including all associated inventoried buildings and structures as identified in the Joliet Army Ammunition Plant Plantwide Building and Structures Report and the contaminate study sites for both the Manufacturing and Load Assembly and Packing sides of the Joliet Arsenal as delineated in the Dames and Moore Final Report, Proposed Future Land Use Map, dated May 30, 1995.

(b) EXCEPTION.—The parcels described in subsection (a) shall not include the property at the Arsenal designated for disposal under chapter 3.

(c) INITIAL OFFER TO SECRETARY OF AGRICULTURE.—Within 6 months after the construction and installation of any remedial design approved by the Administrator and required for any lands described in subsection (a), the Administrator shall provide to the Secretary of Agriculture all existing information regarding the implementation of such remedy, including information regarding its effectiveness. Within 3 months after the Administrator provides such information to the Secretary of Agriculture, the Secretary of the Army shall offer the Secretary of Agriculture the option of accepting a transfer of the areas described in subsection (a), without reimbursement, to be added to the Midewin National Tallgrass Prairie and subject to the terms and conditions, including the limitations on liability, contained in this subtitle. In the event the Secretary of Agriculture declines such offer, the property may be disposed of as the Secretary of the Army would ordinarily dispose of such property under applicable provisions of law. Any sale or other transfer of property conducted pursuant to this subsection may be accomplished on a parcel-by-parcel basis.

CHAPTER 3—OTHER REAL PROPERTY DISPOSALS INVOLVING JOLIET ARMY AMMUNITION PLANT

SEC. 10321. DISPOSAL OF CERTAIN REAL PROPERTY AT ARSENAL FOR A NATIONAL CEMETERY.

(a) TRANSFER REQUIRED.—Subject to section 10331, the Secretary of the Army shall transfer, without reimbursement, to the Secretary of Veterans Affairs the parcel of real property at the Arsenal described in subsection (b) for use as a national cemetery.

(b) DESCRIPTION OF PROPERTY.—The real property to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of approximately 982 acres, the approximate legal description of which includes part of sections 30 and 31 Jackson Township, T34N R10E, and part of sections 25 and 36 Channahon Township, T34N R9E, Will County, Illinois, as depicted in the Arsenal Land Use Concept.

(c) SECURITY MEASURES.—The Secretary of Veterans Affairs shall provide and maintain physical and other security measures on the real property transferred under subsection (a). Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to the portion of the Arsenal that is under the administrative jurisdiction of the Secretary of Veterans Affairs and that may endanger health or safety.

(d) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of Arsenal properties from the Secretary of the Army to the Secretary of Veterans Affairs shall be borne solely by the Secretary of Veterans Affairs.

SEC. 10322. DISPOSAL OF CERTAIN REAL PROPERTY AT ARSENAL FOR A COUNTY LANDFILL.

(a) TRANSFER REQUIRED.—Subject to section 10331, the Secretary of the Army shall transfer, without compensation, to Will County, Illinois, all right, title, and interest of the United States in and to the parcel of real property at the Arsenal described in subsection (b), which shall be operated as a landfill by the County.

(b) DESCRIPTION OF PROPERTY.—The real property to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of approximately 455 acres, the approximate legal description of which includes part of sections 8 and 17, Florence Township, T33N R10E, Will County, Illinois, as depicted in the Arsenal Land Use Concept.

(c) CONDITION ON CONVEYANCE.—The conveyance shall be subject to the condition that the Army (or its agents or assigns) may use the landfill established on the real property transferred under subsection (a) for the disposal of construction debris, refuse, and other nonhazardous materials from the restoration and cleanup of the Arsenal property as provided for in this Act. Such use shall be at no cost to the Federal Government.

(d) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary of the Army makes the conveyance under subsection (a), if the Secretary of the Army determines that the conveyed real property is not being operated as a landfill or that Will County, Illinois, is in violation of the condition specified in subsection (c), then, at the option of the United States, all right, title, and interest in and to the property, including improvements thereon, shall be subject to reversion to the United States. In the event the United States exercises its option to cause the property to revert, the United States shall have the right of immediate entry onto the property. Any determination of the Secretary of the Army under this subsection shall be made on the record after an opportunity for a hearing.

(e) SURVEYS.—All costs of necessary surveys for the transfer of real property under this section shall be borne by Will County, Illinois.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under this section as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 10323. DISPOSAL OF CERTAIN REAL PROPERTY AT ARSENAL FOR ECONOMIC DEVELOPMENT.

(a) TRANSFER REQUIRED.—Subject to section 10331, the Secretary of the Army shall transfer to the State of Illinois, all right, title, and interest of the United States in and to the parcel of real property at the Arsenal described in subsection (b), which shall be used for economic redevelopment to replace all or a part of the economic activity lost at the Arsenal.

(b) DESCRIPTION OF PROPERTY.—The real property to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of—

(1) approximately 1,900 acres, the approximate legal description of which includes part of section 30, Jackson Township, Township 34 North, Range 10 East, and sections or parts of sections 24, 25, 26, 35, and 36, Township 34 North, Range 9 East, in Channahon Township, an area of 9.77 acres around the Des Plaines River Pump Station located in the southeast quarter of section 15, Township 34 North, Range 9 East of the Third Principal Meridian, in Channahon Township, and an area of 511 feet by 596 feet around the Kankakee River Pump Station in the Northwest Quarter of section 5, Township 33 North, Range 9 East, east of the Third Principal Meridian in Wilmington Township, containing 6.99 acres, located along the easterly side of the Kankakee Cut-Off in Will County, Illinois, as depicted in the Arsenal Re-Use Concept, and the connecting piping to the northern industrial site, as described by the United States Army Report of Availability, dated 13 December 1993; and

(2) approximately 1,100 acres, the approximate legal description of which includes part of sections 16, 17, 18 Florence Township, Township 33 North, Range 10 East, Will County, Illinois, as depicted in the Arsenal Land Use Concept.

(c) CONSIDERATION.—The transfer under subsection (a) shall be made without consideration. However, the transfer shall be subject to the condition that, if the State of Illinois reconveys all or any part of the transferred property to a non-Federal entity, the State shall pay to the United States an amount equal to the fair market value of the reconveyed property. The Secretary of the Army shall determine the fair market value of any property reconveyed by the State as of the time of the reconveyance, excluding the value of improvements made to the property by the State. The Secretary may treat a lease of the property as a reconveyance if the Secretary determines that the lease was used in an effort to avoid operation of this subsection. Amounts received under this subsection shall be deposited in the general fund of the Treasury for purposes of deficit reduction.

(d) OTHER CONDITIONS OF CONVEYANCE.—

(1) REDEVELOPMENT AUTHORITY.—The transfer under subsection (a) shall be subject to the further condition that the Governor of the State of Illinois establish a redevelopment authority to be responsible for overseeing the economic redevelopment of the transferred land.

(2) TIME FOR ESTABLISHMENT.—To satisfy the condition specified in paragraph (1), the redevelopment authority shall be established within 1 year after the date of the enactment of this Act.

(e) REVERSIONARY INTEREST.—During the 20-year period beginning on the date the Secretary of the Army makes the transfer under subsection (a), if the Secretary determines that a condition specified in subsection (c) or (d) is not being satisfied or that the transferred land is not being used for economic development purposes, then, at the option of the United States, all right, title, and interest in and to the property, including improvements thereon, shall be subject to reversion to the United States. In the event the United States exercises its option to cause the property to revert, the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(f) SURVEYS.—All costs of necessary surveys for the transfer of real property under this section shall be borne by the State of Illinois.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the transfer under this section as the Secretary considers appropriate to protect the interests of the United States.

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 10331. DEGREE OF ENVIRONMENTAL CLEANUP.

(a) IN GENERAL.—Nothing in this Act shall be construed to restrict or lessen the degree of cleanup at the Arsenal required to be carried out under provisions of any environmental law.

(b) RESPONSE ACTION.—The establishment of the Midewin National Tallgrass Prairie under chapter 2 and the additional real property transfers and disposals required under chapter 3 shall not restrict or lessen in any way any response action or degree of cleanup under CERCLA or other environmental law, or any response action required under any environmental law to remediate petroleum products or their derivatives (including motor oil and aviation fuel), required to be carried out under the authority of the Secretary of the Army at the Arsenal and surrounding areas, except to the extent otherwise allowable under such laws.

(c) ENVIRONMENTAL QUALITY OF PROPERTY.—Any contract for sale, deed, or other transfer of real property under chapter 3 shall be carried out in compliance with all applicable provisions of section 120(h) of CERCLA and other environmental laws.

Subtitle D—Miscellaneous Provisions

SEC. 10401. EXTENSION OF HIGHER VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended by striking ''for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998,'' each place it appears and inserting ''for fiscal years through fiscal year 2002,''.

(b) CONFORMING AMENDMENT.—The Act entitled ''An Act concerning tonnage duties on vessels entering otherwise than by sea'', approved March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking ''for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998,'' and inserting ''for fiscal years through fiscal year 2002,''.

SEC. 10402. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 10403. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Veterans Reconciliation Act of 1995''.

(b) TABLE OF CONTENTS.—The contents of this title are as follows:

Subtitle A—Extension of Temporary Authorities

SEC. 11011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

SEC. 11012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out ''before October 1, 1998,'' and inserting ''before October 1, 2002,''.

SEC. 11013. INCOME VERIFICATION AUTHORITY.

Section 5317(g) of title 38, United States Code, is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

SEC. 11014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

SEC. 11015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out ''October 1, 1998'' and inserting in lieu thereof ''October 1, 2002''; and

(2) in paragraph (5)(C), by striking out ''October 1, 1998'' and inserting in lieu thereof ''October 1, 2002''.

SEC. 11016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out ''October 1, 1998'' and inserting ''October 1, 2002''.

Subtitle B—Other Matters

SEC. 11021. REVISION TO PRESCRIPTION DRUG COPAYMENT.

(a) INCREASE IN AMOUNT OF COPAYMENT.—Section 1722A(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out ''$2'' and inserting in lieu thereof ''$3'';

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) RECOVERY OF INDEBTEDNESS.—(1) Section 5302 of such title is amended by adding at the end the following new subsection:

''(f) The Secretary may not waive under this section the recovery of any payment or the collection of any indebtedness owed under section 1722A of this title.''.

(2) The amendment made by paragraph (1) shall apply with respect to amounts that become due to the United States under section 1722A of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 11022. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES.

(a) FISCAL YEAR 1996 COLA.—(1) Effective as of December 1, 1995, the Secretary of Veterans Affairs shall recompute any increase in an adjustment that is otherwise provided by law to be effective during fiscal year 1996 in the rates of disability compensation and dependency and indemnity compensation paid by the Secretary as such rates were in effect on November 30, 1995. The recomputation shall provide for the same percentage increase as provided under such law, but with amounts so recomputed (if not a whole dollar amount) rounded down to the next lower whole dollar amount (rather than to the nearest whole dollar amount) and with each old-law DIC rate increased by the amount by which the new-law DIC rate is increased (rather than by a uniform percentage).

(2) For purposes of paragraph (1):

(A) The term ''old-law DIC rate'' means a dollar amount in effect under section 1311(a)(3) of title 38, United States Code.

(B) The term ''new-law DIC rate'' means the dollar amount in effect under section 1311(a)(1) of title 38, United States Code.

(b) OUT-YEAR COMPENSATION COLAS.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

"§ 1103. Cost-of-living adjustments

''(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

''(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

''1103. Cost-of-living adjustments.''.

(c) OUT-YEAR DIC COLAS.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:

"§ 1303. Cost-of-living adjustments

''(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

''(b)(1) Cost-of-living adjustments for each of fiscal years 1997 through 2002 in old-law DIC rates shall be in a whole dollar amount that is no greater than the amount by which the new-law DIC rate is increased for that fiscal year as determined under subsection (a).

''(2) For purposes of paragraph (1):

''(A) The term 'old-law DIC rates' means the dollar amounts in effect under section 1311(a)(3) of this title.

''(B) The term 'new-law DIC rate' means the dollar amount in effect under section 1311(a)(1) of this title.

''(c) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:

''1303. Cost-of-living adjustments.''.

SEC. 11023. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) REVISED STANDARD.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

''(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

''(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

''(A) was caused by Department health care and was a proximate result of—

''(i) negligence on the part of the Department in furnishing the Department health care; or

''(ii) an event not reasonably foreseeable; or

''(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

''(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a Department facility (as defined in section 1701(3)(A) of this title).

''(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section.''; and

(3) by adding at the end the following:

''(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

''(1) was the result of Department health care; or

''(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.''.

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out '', aggravation,'' both places it appears; and

(2) by striking out ''sentence'' and inserting in lieu thereof ''subsection''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 11024. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out ''December 31, 1995'' and inserting in lieu thereof ''September 30, 1996''.

SEC. 11025. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out ''unless'' and all that follows and inserting in lieu thereof the following: ''unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.''.

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting ''with return receipt requested'' after ''certified mail''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

Subtitle C—Health Care Eligibility Reform

SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.

(a) ELIGIBILITY FOR CARE.—Section 1710(a) of title 38, United States Code, is amended by striking out paragraphs (1) and (2) and inserting the following:

''(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations Acts for these purposes, provide hospital care and medical services, and may provide nursing home care, which the Secretary determines is needed to any veteran—

''(A) with a compensable service-connected disability;

''(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

''(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

''(D) who is a former prisoner of war;

''(E) of the Mexican border period or of World War I;

''(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); and

''(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

''(2) In the case of a veteran who is not described in paragraph (1), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsection (f), furnish hospital care, medical services, and nursing home care which the Secretary determines is needed.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1710(e) of such title is amended—

(A) in paragraph (1), by striking out ''hospital care and nursing home care'' in subparagraphs (A), (B), and (C) and inserting in lieu thereof ''hospital care, medical services, and nursing home care'';

(B) in paragraph (2), by inserting ''and medical services'' after ''Hospital and nursing home care''; and

(C) by striking out ''subsection (a)(1)(G) of this section'' each place it appears and inserting in lieu thereof ''subsection (a)(1)(F)''.

(2) Chapter 17 of such title is amended—

(A) by redesignating subsection (g) of section 1710 as subsection (h); and

(B) by transferring subsection (f) of section 1712 of such title to section 1710 so as to appear after subsection (f), redesignating such subsection as subsection (g), and amending such subsection by striking out ''section 1710(a)(2) of this title'' in paragraph (1) and inserting in lieu thereof ''subsection (a)(2) of this section''.

(3) Section 1712 of such title is amended—

(A) by striking out subsections (a) and (i); and

(B) by redesignating subsections (b), (c), (d), (h) and (j), as subsections (a), (b), (c), (d), and (e), respectively.

SEC. 11032. EXTENSION OF AUTHORITY TO PRIORITY HEALTH CARE FOR PERSIAN GULF VETERANS.

Section 1710(e)(3) of title 38, United States Code, is amended by striking out ''December 31, 1995'' and inserting in lieu thereof ''December 31, 1998''.

SEC. 11033. PROSTHETICS.

(a) ELIGIBILITY FOR PROSTHETICS.—Section 1701(6)(A)(i) of title 38, United States Code, is amended—

(1) by striking out ''(in the case of a person otherwise receiving care or services under this chapter)'' and ''(except under the conditions described in section 1712(a)(5)(A) of this title),'';

(2) by inserting ''(in the case of a person otherwise receiving care or services under this chapter)'' before ''wheelchairs,''; and

(3) by inserting ''except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe,'' after ''reasonable and necessary,''.

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 11034. MANAGEMENT OF HEALTH CARE.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new sections:

''§ 1705. Management of health care: patient enrollment system

''(a) In managing the provision of hospital care and medical services under section 1710(a)(1) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

''(1) Veterans with service-connected disabilities rated 30 percent or greater.

''(2) Veterans who are former prisoners of war and veterans with service connected disabilities rated 10 percent or 20 percent.

''(3) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

''(4) Veterans not covered by paragraphs (1) through (3) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

''(5) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(1) of this title.

''(b) In the design of an enrollment system under subsection (a), the Secretary—

''(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

''(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

''(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

''§ 1706. Management of health care: other requirements

''(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall, to the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

''(b) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary—

''(1) may contract for hospital care and medical services when Department facilities are not capable of furnishing such care and services economically, and

''(2) shall make such rules and regulations regarding acquisition procedures or policies as the Secretary considers appropriate to provide such needed care and services.

''(c) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (1) affords those veterans reasonable access to care and services for those specialized needs, and (2) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section.

''(d) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that any veteran with a service-connected disability is provided all benefits under this chapter for which that veteran was eligible before the date of the enactment of this section.''.

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1704 the following new items:

''1705. Management of health care: patient enrollment system.

''1706. Management of health care: other requirements.''.

(b) CONFORMING AMENDMENTS TO SECTION 1703.—(1) Section 1703 of such title is amended—

(A) by striking out subsections (a) and (b); and

(B) in subsection (c) by—

(i) striking out ''(c)'', and

(ii) striking out ''this section, sections'' and inserting in lieu thereof ''sections 1710,''.

(2)(A) The heading of such section is amended to read as follows:

''§ 1703. Annual report on furnishing of care and services by contract''.

(B) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended to read as follows:

''1703. Annual report on furnishing of care and services by contract.''.

SEC. 11035. IMPROVED EFFICIENCY IN HEALTH CARE RESOURCE MANAGEMENT.

(a) REPEAL OF SUNSET PROVISION.—Section 204 of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4950) is repealed.

(b) COST RECOVERY.—Title II of such Act is further amended by adding at the end the following new section:

''SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

''(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

''(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.''.

SEC. 11036. SHARING AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES.

(a) REPEAL OF SECTION 8151.—(1) Subchapter IV of chapter 81 of title 38, United States Code, is amended—

(A) by striking out section 8151; and

(B) by redesignating sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 as sections 8151, 8152, 8153, 8154, 8155, 8156, and 8157, respectively.

(2) The table of sections at the beginning of chapter 81 is amended—

(A) by striking out the item relating to section 8151; and

(B) by revising the items relating to sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 to reflect the redesignations by paragraph (1)(B).

(b) REVISED AUTHORITY FOR SHARING AGREEMENTS.—Section 8152 of such title, as redesignated by subsection (a)(1)(B), is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out ''specialized medical resources'' and inserting in lieu thereof ''health-care resources''; and

(B) by striking out ''other'' and all that follows through ''medical schools'' and inserting in lieu thereof ''any medical school, health-care provider, health-care plan, insurer, or other entity or individual'';

(2) in subsection (a)(2) by striking out ''only'' and all that follows through ''are not'' and inserting in lieu thereof ''if such resources are not, or would not be,'';

(3) in subsection (b), by striking out ''reciprocal reimbursement'' in the first sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof ''payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.'';

(4) in subsection (d), by striking out ''preclude such payment, in accordance with—'' and all that follows through ''to such facility therefor'' and inserting in lieu thereof ''preclude such payment to such facility for such care or services'';

(5) by redesignating subsection (e) as subsection (f); and

(6) by inserting after subsection (d) the following new subsection (e):

''(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

''(1) that such an arrangement will not result in the denial of, or a delay in providing access to, care to any veteran at that facility; and

''(2) that such an arrangement—

''(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

''(B) will result in the improvement of services to eligible veterans at that facility.''.

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 8110(c)(3)(A) of such title is amended by striking out ''8153'' and inserting in lieu thereof ''8152''.

(2) Subsection (b) of section 8154 of such title (as redesignated by subsection (a)(1)(B)) is amended by striking out ''section 8154'' and inserting in lieu thereof ''section 8153''.

(3) Section 8156 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in subsection (a), by striking out ''section 8153(a)'' and inserting in lieu thereof ''section 8152(a)''; and

(B) in subsection (b)(3), by striking out ''section 8153'' and inserting in lieu thereof ''section 8152''.

(4) Subsection (a) of section 8157 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in the matter preceding paragraph (1), by striking out ''section 8157'' and ''section 8153(a)'' and inserting in lieu thereof ''section 8156'' and ''section 8152(a)'', respectively; and

(B) in paragraph (1), by striking out ''section 8157(b)(4)'' and inserting in lieu thereof ''section 8156(b)(4)''.

SEC. 11037. PERSONNEL FURNISHING SHARED RESOURCES.

Section 712(b)(2) of title 38, United States Code, is amended—

(1) by striking out ''the sum of—'' and inserting in lieu thereof ''the sum of the following:'';

(2) by capitalizing the first letter of the first word of each of subparagraphs (A) and (B);

(3) by striking out ''; and'' at the end of subparagraph (A) and inserting in lieu thereof a period; and

(4) by adding at the end the following:

''(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8152 of this title.''.

TITLE XII—TRADE

Subtitle A—Technical Corrections and Miscellaneous Trade Provisions

SEC. 12001. PAYMENT OF DUTIES AND FEES.

(a) INTEREST ACCRUAL.—Section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)) is amended in the second sentence by inserting after ''duties, fees, and interest'' the following: ''or, in a case in which a claim is made under section 520(d), from the date on which such claim is made,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims made pursuant to section 520(d) of the Tariff Act of 1930 on or after April 25, 1995.

SEC. 12002. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) EXAMINATION OF BOOKS AND WITNESSES.—Section 509(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1509(a)(2)) is amended by striking ''(c)(1)(A)'' and inserting ''(d)(1)(A)''.

(b) REQUIREMENT FOR CERTIFICATE FOR IMPORTATION OF ALCOHOLIC LIQUORS IN SMALL VESSELS.—Section 7 of the Act of August 5, 1935 (19 U.S.C. 1707; 49 Stat. 520), is repealed.

(c) MANIFESTS.—Section 431(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)) is amended in the matter preceding subparagraph (A) by striking ''such manifest'' and inserting ''a vessel manifest''.

(d) DOCUMENTATION FOR ENTRY OF MERCHANDISE.—Section 484(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1484(a)(1)) is amended in the matter preceding subparagraph (A) by striking ''553, and 336(j)'' and inserting ''and 553''.

(e) PENALTIES FOR CERTAIN VIOLATIONS.—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(1) in subsection (a)(1), by striking ''lawful duty'' and inserting ''lawful duty, tax, or fee''; and

(2) in subsections (b)(1)(A)(vi), (c)(2)(A)(ii), (c)(3)(A)(ii), (c)(4)(A)(i), and (c)(4)(B) by striking ''lawful duties'' each place it appears and inserting ''lawful duties, taxes, and fees''.

(f) DEPRIVATION OF LAWFUL DUTIES, TAXES, OR FEES.—Section 592(d) of the Tariff Act of 1930 (19 U.S.C. 1592(d)) is amended by striking ''or fees be restored'' and inserting ''and fees be restored''.

(g) RECONCILIATION TREATED AS ENTRY FOR RECORDKEEPING.—

(1) Section 401(s) of the Tariff Act of 1930 (19 U.S.C. 1401(s)) is amended by inserting ''recordkeeping,'' after ''reliquidation,''.

(2) Section 508(c)(1) of such Act (19 U.S.C. 1508(c)(1)) is amended by inserting '', filing of a reconciliation,'' after ''entry''.

(h) EXTENSION OF LIQUIDATION.—Section 504(d) of the Tariff Act of 1930 (19 U.S.C. 1504(d)) is amended by inserting '', unless liquidation is extended under subsection (b),'' after ''shall liquidate the entry''.

(i) EXEMPTION FROM DUTY FOR PERSONAL AND HOUSEHOLD GOODS ACCOMPANYING RETURNING RESIDENTS.—Section 321(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(B)) is amended by inserting '', 9804.00.65,'' after ''9804.00.30''.

(j) DEBT COLLECTION.—Section 631(a) of the Tariff Act of 1930 (19 U.S.C. 1631(a)) is amended—

(1) by inserting after ''law,'' the following: ''including section 3302 of title 31, United States Code, and subchapters I and II of chapter 37 of such title,''; and

(2) by inserting ''and the expenses associated with recovering such indebtedness,'' after ''Government,''.

(k) EXAMINATION OF BOOKS AND WITNESSES.—Section 509(b) of the Tariff Act of 1930 (19 U.S.C. 1509(b)) is amended in paragraphs (3) and (4) by striking ''appropriate regional commissioner'' and inserting ''officer designated pursuant to regulations''.

(l) REVIEW OF PROTESTS.—Section 515(d) of the Tariff Act of 1930 (19 U.S.C. 1515(d)) is amended by striking ''district director'' and inserting ''port director''.

(m) EFFECTIVE DATE.—The amendments made by this section apply as of December 8, 1993.

SEC. 12003. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) in clause (iv)—

(A) by striking ''subparagraph 9802.00.80 of such Schedules'' and inserting ''heading 9802.00.80 of such Schedule''; and

(B) by striking ''and'' at the end of clause (iv);

(2) by striking the period at the end of clause (v) and inserting ''; and''; and

(3) by inserting after clause (v) the following new clause:

''(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the privileged or nonprivileged foreign status merchandise under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if liquidation of the entry was not final before such 15th day.

(c) APPLICATION OF FEES TO CERTAIN AGRICULTURAL PRODUCTS.—The amendment made by section 111(b)(2)(D)(iv) of the Customs and Trade Act of 1990 shall apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the liquidation of the entry was not final before such 15th day.

SEC. 12004. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking '', or withdrawn from warehouse for consumption,'' and inserting ''for transportation in bond''.

SEC. 12005. TECHNICAL AMENDMENTS REGARDING CERTAIN BENEFICIARY COUNTRIES.

(a) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213(h)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(h)(1)) is amended by adding at the end thereof the following flush sentence:

''The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.''.

(b) ANDEAN TRADE PREFERENCE ACT.—Section 204(c)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(c)(1)) is amended by adding at the end thereof the following flush sentence:

''The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to—

(1) articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act, and

(2) articles entered after December 31, 1991, and before such 15th day, if the liquidation of the entry of such articles was not final before such 15th day.

SEC. 12006. CLARIFICATION OF FEES FOR CERTAIN CUSTOMS SERVICES.

(a) IN GENERAL.—Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended—

(1) by striking ''centralized hub facility or'' in clause (i); and

(2) in clause (ii)—

(A) by striking ''facility—'' and inserting ''facility or centralized hub facility—'',

(B) by striking ''customs inspectional'' in subclause (I), and

(C) by striking ''at the facility'' in subclause (I) and inserting ''for the facility''.

(b) DEFINITIONS.—Section 13031(b)(9)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(i)) is amended—

(1) by striking '', as in effect on July 30, 1990'', and

(2) by adding at the end thereof the following new sentence: ''Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).''.

(c) CITATION.—Section 13031(b)(9)(B)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(ii)) is amended by striking ''section 236 of the Tariff and Trade Act of 1984'' and inserting ''section 236 of the Trade and Tariff Act of 1984''.

SEC. 12007. SPECIAL RULE FOR EXTENDING TIME FOR FILING DRAWBACK CLAIMS.

Section 313(r) of the Tariff Act of 1930 (19 U.S.C. 1313(r)) is amended by adding at the end the following:

''(3)(A)(i) Subject to clause (ii), the Customs Service may, notwithstanding the limitation set forth in paragraph (1), extend the time for filing a drawback claim for a period not to exceed 18 months, if—

''(I) the claimant establishes to the satisfaction of the Customs Service that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994; and

''(II) the claimant files a request for such extension with the Customs Service within one year from the last day of the 3-year period referred to in paragraph (1).

''(ii) In the case of a major disaster occurring on or after January 1, 1994, and before the date of the enactment of this paragraph—

''(I) the Customs Service may extend the time for filing the drawback claim for a period not to exceed 1 year; and

''(II) the request under clause (i)(II) must be filed not later than 1 year from the date of the enactment of this paragraph.

''(B) If an extension is granted with respect to a request filed under this paragraph, the periods of time for retaining records set forth in subsection (t) of this section and section 508(c)(3) shall be extended for an additional 18 months or, in a case to which subparagraph (A)(ii) applies, for a period not to exceed 1 year from the date the claim is filed.

''(C) For purposes of this paragraph, the term 'major disaster' has the meaning given that term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).''.

SEC. 12008. TREATMENT OF CERTAIN ENTRIES.

(a) LIQUIDATION OR RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), and any other provision of law, the United States Customs Service shall liquidate or reliquidate those entry numbers made at New York, New York, which are listed in subsection (c), in accordance with the final results of the administrative review, covering the period from May 1, 1984, through March 31, 1985, undertaken by the International Trade Administration of the Department of Commerce for such entries (case number A–580–008).

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRY LIST.—The entries referred to in subsection (a) are the following:

Entry Number	Date of Entry
84–4426808	August 29, 1984
84–4427823	September 4, 1984
84–4077985	July 25, 1984
84–4080859	August 3, 1984
84–4080817	August 3, 1984
84–4077723	August 1, 1984
84–4075194	July 10, 1984
84–4076481	July 17, 1984
84–4080930	August 9, 1984.

SEC. 12009. TEMPORARY DUTY SUSPENSION FOR PERSONAL EFFECTS OF PARTICIPANTS IN CERTAIN WORLD ATHLETIC EVENTS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''9902.98.05	Any of the following articles not intended for sale or distribution to the public: personal effects of aliens who are participants in, officials of, or accredited members of delegations to, the 1998 Goodwill Games, and of persons who are immediate family members of or servants to any of the foregoing persons; equipment and materials imported in connection with the foregoing event by or on behalf of the foregoing persons or the organizing committee of such event; articles to be used in exhibitions depicting the culture of a country participating in such event; and, if consistent with the foregoing, such other articles as the Secretary of the Treasury may allow .	Free	No change	Free	On or before 2/1/99''.

(b) TAXES AND FEES NOT TO APPLY.—The articles described in heading 9902.98.05 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) shall be free of taxes and fees which may be otherwise applicable.

(c) EFFECTIVE DATE.—The amendment made by this section applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 12010. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) DRAWBACK AND REFUNDS.—Section 313(s)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1313(s)(2)(B)) is amended by striking ''successor'' the first place it appears and inserting ''predecessor''.

(b) TRADE ACT OF 1974.—Section 301(c)(4) of the Trade Act of 1974 (19 U.S.C. 2411(c)(4)) is amended by striking ''(1)(C)(iii)'' and inserting ''(1)(D)(iii)''.

SEC. 12011. URUGUAY ROUND AGREEMENTS ACT.

Section 405(b) of the Uruguay Round Agreements Act (19 U.S.C. 3602(b)) is amended—

(1) in paragraph (1) by striking ''1(a)'' and inserting ''1(b)''; and

(2) in paragraph (2) by striking ''1(b)'' and inserting ''1(a)''.

SEC. 12012. FILING OF CERTIFICATIONS FOR CIVIL AIRCRAFT PARTS.

General Note 6 of the Harmonized Tariff Schedule of the United States is amended—

(1) by inserting ''or electronic'' after ''shall file a written''; and

(2) by striking ''with the appropriate customs officer'' and inserting ''with the United States Customs Service''.

SEC. 12013. EXEMPTION REGARDING CERTAIN VESSEL REPAIRS.

(a) TEMPORARY EXEMPTION EXTENDED.—Section 484E(b)(2)(B) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note) is amended by striking ''December 31, 1992'' and inserting ''December 31, 1994''.

(b) EFFECTIVE DATE.—The amendment made by this section applies to any entry made after December 31, 1992, and before January 1, 1995.

SEC. 12014. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) IN GENERAL.—Section 13031(a)(5) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(5)) is amended—

(1) in subparagraph (A), by inserting ''a place'' after ''aircraft from''; and

(2) in subparagraph (B), by striking ''subsection (b)(1)(A)'' and inserting ''subsection (b)(1)(A)(i)''.

(b) LIMITATION ON FEES.—Section 13031(b)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)) is amended to read as follows:

''(b) LIMITATIONS ON FEES.—(1)(A) No fee may be charged under subsection (a) of this section for customs services provided in connection with—

''(i) the arrival of any passenger whose journey—

''(I) originated in—

''(aa) Canada,

''(bb) Mexico,

''(cc) a territory or possession of the United States, or

''(dd) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5))), or

''(II) originated in the United States and was limited to—

''(aa) Canada,

''(bb) Mexico,

''(cc) territories and possessions of the United States, and

''(dd) such adjacent islands;

''(ii) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates;

''(iii) the arrival of any ferry; or

''(iv) the arrival of any passenger on board a commercial vessel traveling only between ports which are within the customs territory of the United States.

''(B) The exemption provided for in subparagraph (A) shall not apply in the case of the arrival of any passenger on board a commercial vessel whose journey originates and terminates at the same place in the United States if there are no intervening stops.

''(C) The exemption provided for in subparagraph (A)(i) shall not apply to fiscal years 1994, 1995, 1996, and 1997.''.

(c) FEE ASSESSED ONLY ONCE.—Section 13031(b)(4) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(4)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking ''No fee'' and inserting ''(A) No fee''; and

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

''(B) In the case of a commercial vessel making a single voyage involving 2 or more United States ports with respect to which the passengers would otherwise be charged a fee pursuant to subsection (a)(5), such fee shall be charged only 1 time for each passenger.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 521 of the North American Free Trade Agreement Implementation Act.

SEC. 12015. TECHNICAL CORRECTION TO CERTAIN CHEMICAL DESCRIPTION.

(a) AMENDMENT TO SUBHEADING 2933.90.02.—The article description for subheading 2933.90.02 of the Harmonized Tariff Schedule of the United States is amended by striking ''(Quizalofop ethyl)''.

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by this section applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE PROVISION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request (which includes sufficient information to identify and locate the entry) filed with

the Customs Service on or before the date that is 180 days after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article that occurred—

(A) after December 31, 1994, and before the date that is 15 days after the date of the enactment of this Act, and

(B) with respect to which there would have been no duty or a lesser duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

SEC. 12016. MARKING OF IMPORTED ARTICLES AND CONTAINERS.

(a) IN GENERAL.—Section 304 of the Tariff Act of 1930 (19 U.S.C.1304) is amended—

(1) by redesignating subsections (f), (g), (h), and (i) as subsections (i), (j), (k), and (l), respectively, and

(2) by inserting after subsection (e) the following new subsections:

''(f) MARKING OF METAL FORGINGS.—The marking requirements of subsections (a) and (b) shall not apply to—

''(1) metal forgings that—

''(A) are imported for processing into finished hand tools in the United States, and

''(B) have not been improved in condition beyond rough burring, trimming, grinding, turning, hammering, chiseling, or filing; and

''(2) hand tools made from metal forgings described in paragraph (1).

''(g) MARKING OF CERTAIN COFFEE AND TEA PRODUCTS.—The marking requirements of subsections (a) and (b) shall not apply to articles described in subheading 0901.21, 0901.22, 0902.10, 0902.20, 0902.30, 0902.40, 2101.10, or 2101.20 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.

''(h) MARKING OF SPICES.—The marking requirements of subsections (a) and (b) shall not apply to articles provided for under subheadings 0904.11, 0904.12, 0904.20, 0905.00, 0906.10, 0906.20, 0907.00, 0908.10, 0908.20, 0908.30, 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91, 0910.99, 1106.20, 1207.40, 1207.50, 1207.91, 1404.90, and 3302.10, and items classifiable in categories 0712.90.60, 0712.90.8080, 1209.91.2000, 1211.90.2000, 1211.90.8040, 1211.90.8050, 1211.90.8090, 2006.00.3000, 2918.13.2000, 3203.00.8000, 3301.90.1010, 3301.90.1020, and 3301.90.1050 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to goods entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.

SEC. 12017. RELIQUIDATING ENTRY OF WARP KNITTING MACHINES.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service before the 180th day after the date of the enactment of this Act, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as duty free Entry No. 100–3022436–3, made on July 12, 1989, at the port of Charleston, South Carolina; and

(2) refund any duties and interest paid with respect to such entry.

SEC. 12018. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

Section 310(a)(1) of the Trade Act of 1974 (19 U.S.C. 2420(a)(1)) is amended by striking ''calendar year 1995'' and inserting ''each of calendar years 1995 through 2000''.

Subtitle B—Generalized System of Preferences

SEC. 12101. SHORT TITLE.

This subtitle may be cited as the ''GSP Renewal Act of 1995''.

SEC. 12102. GENERALIZED SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended to read as follows:

''TITLE V—GENERALIZED SYSTEM OF PREFERENCES

''SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

''The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

''(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

''(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

''(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

''(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

''SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.

''(a) AUTHORITY TO DESIGNATE COUNTRIES.—

''(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

''(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

''(b) COUNTRIES INELIGIBLE FOR COUNTRY DESIGNATION.—

''(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

''(A) Australia.

''(B) Canada.

''(C) European Union member states.

''(D) Iceland.

''(E) Japan.

''(F) Monaco.

''(G) New Zealand.

''(H) Norway.

''(I) Switzerland.

''(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

''(A) Such country is a Communist country, unless—

''(i) the products of such country receive nondiscriminatory treatment,

''(ii) such country is a WTO Member (as such term is defined in section 2 of the Uruguay Round Agreements Act,) and a member of the International Monetary Fund, and

''(iii) such country is not dominated or controlled by international communism.

''(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

''(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

''(ii) to cause serious disruption of the world economy.

''(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

''(D)(i) Such country—

''(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

''(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

''(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

''(ii) This clause applies if the President determines that—

''(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

''(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

''(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

''(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

''(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

''(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

''(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

''(1) an expression by such country of its desire to be so designated;

''(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

''(3) the extent to which other major developed countries are extending generalized preferential tariff treatment to such country;

''(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

''(5) whether such country is providing adequate and effective protection of intellectual property rights;

''(6) the extent to which such country has taken action to—

''(A) reduce trade distorting investment practices and policies (including export performance requirements); and

''(B) reduce or eliminate barriers to trade in services;

''(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights; and

''(8) the extent to which such country fails to cooperate with the United States in preventing the proliferation of nuclear weapons, nuclear weapons components, and nuclear weapons delivery systems, or in preventing illegal drug trafficking.

A country may be found to not provide adequate and effective protection of intellectual property rights under paragraph (5) and section 503(d)(2)(B), notwithstanding the fact that it may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act.

''(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

''(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. Except in exceptional circumstances, the President, before taking any action under this subsection, shall provide a period for the submission of public comments on the matter under consideration, and in taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section, and comments received from the public.

''(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

''(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

''(f) CONGRESSIONAL NOTIFICATION.—

''(1) NOTIFICATION OF DESIGNATION.—

''(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

''(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

''(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

''SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

''(a) ELIGIBLE ARTICLES.—

''(1) DESIGNATION.—

''(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles for all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

''(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except as provided in subsection (b), the President is authorized to designate additional articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

''(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of three years after such denial.

''(2) RULE OF ORIGIN.—

''(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

''(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

''(ii) the sum of—

''(I) the cost or value of the materials produced in the beneficiary developing country or any two or more countries which are members of the same association of countries which is treated as one country under section 506(2), plus

''(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

''(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

''(i) simple combining or packaging operations, or

''(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

''(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

''(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

''(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

''(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

''(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

''(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

''(B) Import-sensitive electronic articles.

''(C) Import-sensitive steel articles.

''(D) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

''(E) Import-sensitive semimanufactured and manufactured glass products.

''(F) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

''(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

''(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

''(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

''(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

''(2) COMPETITIVE NEED LIMITATION.—

''(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—Except as provided in this paragraph and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

''(i) a quantity of an eligible article having an appraised value in excess of $75,000,000, except that, in applying this clause, the amount of $75,000,000 shall be increased by $5,000,000 on January 1 of each calendar year after calendar year 1995, or

''(ii) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during the calendar year,

then the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

''(B) COUNTRY DEFINED.—For purposes of this paragraph, the term 'country' does not include an association of countries which is treated as one country under section 506(2), but does include a country which is a member of any such association.

''(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may be redesignated a beneficiary developing country with respect to such article, subject to the considerations set forth in sections 501 and 502, if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

''(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

''(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(ii) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

''(F) DE MINIMIS WAIVERS.—The President may disregard subparagraph (A)(ii) with respect to any eligible article from any beneficiary developing country if the appraised value of the total imports of such article into the United States during calendar year 1995 or any calendar year thereafter does not exceed $13,000,000, except that, in applying this subparagraph, the amount of $13,000,000 shall be increased by $500,000 on January 1 of each calendar year after calendar year 1995.

''(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

''(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

''(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

''(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

''(C) publishes the determination described in subparagraph (B) in the Federal Register.

''(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

''(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

''(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

''(3) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

''(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under section 503(a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

''(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

''SEC. 504. REVIEW AND REPORTS TO CONGRESS.

''(a) REPORT ON OPERATION OF TITLE.—On or before July 31, 1997, the President shall submit to the Congress a full and complete report regarding the operation of this title.

''(b) ANNUAL REPORTS ON WORKER RIGHTS.—The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

''SEC. 505. DATE OF TERMINATION.

''No duty-free treatment provided under this title shall remain in effect after December 31, 1997.

''SEC. 506. DEFINITIONS.

''For purposes of this title:

''(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

''(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

''(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

''(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—

''(A) the right of association;

''(B) the right to organize and bargain collectively;

''(C) a prohibition on the use of any form of forced or compulsory labor;

''(D) a minimum age for the employment of children; and

''(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

''(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).''.

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

''TITLE V—GENERALIZED SYSTEM OF PREFERENCES

''Sec. 501. Authority to extend preferences.
''Sec. 502. Designation of beneficiary developing countries.
''Sec. 503. Designation of eligible articles.
''Sec. 504. Review and reports to Congress.
''Sec. 505. Date of termination.
''Sec. 506. Definitions.''.

SEC. 12103. RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (b), the entry—

(1) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, and

(2) that was made after July 31, 1995, and before the date of the enactment of this Act,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

(c) TREATMENT OF CERTAIN ENTRIES OF BUFFALO LEATHER.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, buffalo leather, provided for under subheading 4104.39.20 of the Harmonized Tariff Schedule of the United States, that is a product of Thailand and entered into the United States under entry numbers M42–1113868–8 and M42–1113939–7, shall be liquidated or reliquidated, as appropriate, as if entered on June 30, 1995.

SEC. 12104. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—

(A) in paragraph (1), by striking ''(19 U.S.C. 2463(a), 2464(c)(3))'' and inserting ''(as in effect on the day before the date of the enactment of the GSP Renewal Act of 1995)''; and

(B) in paragraph (2), by striking ''(19 U.S.C. 2464(c)(1))'' and inserting the following: ''(as in effect on the day before the date of the enactment of the GSP Renewal Act of 1995)''.

(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking ''502(a)(4)'' and inserting ''506(4)''.

(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking ''502(a)(4)'' and inserting ''506(4)''.

(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking ''sections 503(b) and 504(c)'' and inserting ''subsections (a), (c), and (d) of section 503''.

(b) OTHER LAWS.—

(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking ''within the meaning of section 502'' and inserting ''under title V''.

(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking ''502(a)(4)'' and inserting ''506(4)''.

(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking ''502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))'' and inserting ''506(4) of the Trade Act of 1974'';

(B) in paragraph (2) by striking ''505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))'' and inserting ''504(b) of the Trade Act of 1974''; and

(C) in paragraph (4) by striking ''502(a)(4)'' and inserting ''506(4)''.

Subtitle C—Trade Adjustment Assistance

SEC. 12201. MODIFICATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) REQUIREMENT OF TRAINING.—(1) Section 231(c) of the Trade Act of 1974 (19 U.S.C. 2291) is amended—

(A) in paragraph (1)(A) and (B) by striking ''it is not feasible or appropriate to approve a training program'' and inserting ''a training program is not available''; and

(B) in paragraph (2)(A) and (B) by striking ''it is feasible or appropriate to approve a training program'' and inserting ''a training program is available''.

(2) Section 233(b) of such Act (19 U.S.C. 2293(b)) is repealed.

(3) Paragraph (3) of section 250(d) of the Trade Act of 1974 (19 U.S.C. 2331(d)) is amended—

(A) by striking ''it is not feasible or appropriate to approve a training program'' in subparagraph (A) and inserting ''a training program is not available'', and

(B) by striking ''notwithstanding the provisions of section 233(b),'' in subparagraph (B).

(b) TERMINATION OF RELOCATION ALLOWANCES.—(1) Section 238 of the Trade Act of 1974 (19 U.S.C. 2298), and the item relating to that section in the table of contents for that Act, are repealed.

(2) Section 250(d) of the Trade Act of 1974 (19 U.S.C. 2331(d)) is amended by striking paragraph (5).

(c) TERMINATION OF PROGRAM.—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2271 preceding note) is amended—

(1) in paragraph (1), by striking ''1998'' and inserting ''2000''; and

(2) by amending paragraph (2) to read as follows:

''(2) No assistance, vouchers, allowances, or other payments may be provided under subchapter D of chapter 2 after September 30, 1998.''.

(d) EXTENSION OF AUTHORIZATION.—(1) Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ''and 1998'' and inserting ''1998, 1999, and 2000''.

(2) Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(a)) is amended by striking ''and 1998'' and inserting ''1998, 1999, and 2000''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall take effect on October 1, 1996.

TITLE XIII—COMMITTEE ON WAYS AND MEANS—REVENUE RECONCILIATION

SEC. 13001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Revenue Reconciliation Act of 1995''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Subtitle A—Extension of Expiring Provisions, Etc.

PART I—EXTENSIONS THROUGH DECEMBER 31, 1997

SEC. 13101. WORK OPPORTUNITY TAX CREDIT.

(a) AMOUNT OF CREDIT.—Subsection (a) of section 51 is amended by striking ''40 percent'' and inserting ''35 percent''.

(b) MEMBERS OF TARGETED GROUPS.—Subsection (d) of section 51 is amended to read as follows:

''(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

''(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

''(A) a qualified AFDC recipient,

''(B) a qualified ex-felon,

''(C) a high-risk youth,

''(D) a vocational rehabilitation referral, or

''(E) a qualified summer youth employee.

''(2) QUALIFIED AFDC RECIPIENT.—

''(A) IN GENERAL.—The term 'qualified AFDC recipient' means any individual who is certified by the designated local agency as being a member of a family receiving assistance under an AFDC program for at least a 9-month period ending during the 9-month period ending on the hiring date.

''(B) AFDC PROGRAM.—For purposes of this paragraph, the term 'AFDC program' means any program providing aid under a State plan approved under part A of title IV of the Social Security Act (relating to aid to families with dependent children) and any successor of such program.

''(C) SPECIAL RULES FOR VETERANS.—In the case of a veteran, subparagraph (A) shall be applied by substituting '12-month' for '9-month' the second place it appears.

''(D) VETERAN.—For purposes of subparagraph (C), the term 'veteran' means any individual who is certified by the designated local agency as—

''(i)(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

''(II) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and

''(ii) not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.

For purposes of clause (ii), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

''(3) QUALIFIED EX-FELON.—The term 'qualified ex-felon' means any individual who is certified by the designated local agency—

''(A) as having been convicted of a felony under any statute of the United States or any State,

''(B) as having a hiring date which is not more than 1 year after the last date on which such individual was so convicted or was released from prison, and

''(C) as being a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard.

Any determination under subparagraph (C) shall be valid for the 45-day period beginning on the date such determination is made.

''(4) HIGH-RISK YOUTH.—

''(A) IN GENERAL.—The term 'high-risk youth' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 25 on the hiring date, and

''(ii) as having his principal place of abode within an empowerment zone or enterprise community.

''(B) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—In the case of a high-risk youth, the term 'qualified wages' shall not include wages paid or incurred for services performed while such youth's principal place of abode is outside an empowerment zone or enterprise community.

''(5) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—

''(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

''(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

''(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

''(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

''(6) QUALIFIED SUMMER YOUTH EMPLOYEE.—

''(A) IN GENERAL.—The term 'qualified summer youth employee' means any individual—

''(i) who performs services for the employer between May 1 and September 15,

''(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),

''(iii) who has not been an employee of the employer during any period prior to the 90-

day period described in subparagraph (B)(i), and

''(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone or enterprise community.

''(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

''(i) subsection (b)(2) shall be applied by substituting 'any 90-day period between May 1 and September 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

''(ii) subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.

The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.

''(C) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—Paragraph (4)(B) shall apply for purposes of this paragraph.

''(7) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

''(8) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49-49n).

''(9) SPECIAL RULES FOR CERTIFICATIONS.—

''(A) IN GENERAL.—An individual shall not be treated as a member of a targeted group unless—

''(i) on or before the day on which such individual begins work for the employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group, or

''(ii)(I) on or before the day the individual is offered employment with the employer, a pre-screening notice is completed with respect to such individual, and

''(II) not later than the 14th day after the individual begins work for the employer, the employer submits such notice to the designated local agency as part of a written request for such a certification from such agency.

For purposes of this paragraph, the term 'pre-screening notice' means a document (in such form as the Secretary shall prescribe) which is signed by the employer and the individual under penalties of perjury and which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

''(B) INCORRECT CERTIFICATIONS.—If—

''(i) an individual has been certified by a designated local agency as a member of a targeted group, and

''(ii) such certification is incorrect because it was based on false information provided by such individual,

the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.

''(C) EXPLANATION OF DENIAL OF REQUEST.—If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial.''

(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) is amended to read as follows:

''(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either—

''(A) is employed by the employer at least 180 days (20 days in the case of a qualified summer youth employee), or

''(B) has completed at least 500 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer.''

(d) DEFINITION OF WAGES.—Subsection (c) of section 51 is amended by striking paragraph (3).

(e) TERMINATION.—Paragraph (4) of section 51(c) is amended to read as follows:

''(3) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual who begins work for the employer—

''(A) after December 31, 1994, and before January 1, 1996, or

''(B) after December 31, 1997.''

(f) REDESIGNATION OF CREDIT.—

(1) Sections 38(b)(2) and 51(a) are each amended by striking ''targeted jobs credit'' and inserting ''work opportunity credit''.

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 is amended by striking ''**Targeted Jobs Credit**'' and inserting ''**Work Opportunity Credit**''.

(3) The table of subparts for such part IV is amended by striking ''targeted jobs credit'' and inserting ''work opportunity credit''.

(g) BUSINESS AWARENESS PROGRAM.—The Secretary of Labor shall implement a program to encourage small businesses to use the services of local agencies to identify individuals who qualify to be certified as members of targeted groups (as defined in section 51 of the Internal Revenue Code of 1986, as amended by this section). Such Secretary, and the heads of other Federal agencies, shall make every effort to encourage small businesses to benefit from the credit allowable under such section by simplifying procedures to the extent possible.

(h) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 51(c) is amended by striking '', subsection (d)(8)(D),''.

(2) Paragraph (3) of section 51(i) is amended by striking ''(d)(12)'' each place it appears and inserting ''(d)(6)''.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 1995.

SEC. 13102. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking ''December 31, 1994'' and inserting ''December 31, 1997''.

(b) LIMITATION TO EDUCATION BELOW GRADUATE LEVEL.—The last sentence of section 127(c)(1) is amended by inserting before the period ''or at the graduate level''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

(2) LIMITATION.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1995.

SEC. 13103. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended—

(1) by striking ''June 30, 1995'' each place it appears and inserting ''December 31, 1997'', and

(2) by striking ''July 1, 1995'' each place it appears and inserting ''January 1, 1998''.

(b) BASE AMOUNT FOR START-UP COMPANIES.—Clause (i) of section 41(c)(3)(B) (relating to start-up companies) is amended to read as follows:

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—

''(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

''(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.''

(c) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—Subsection (c) of section 41 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to the sum of—

''(i) 1.65 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average described in subsection (c)(1)(B) but does not exceed 1.5 percent of such average,

''(ii) 2.2 percent of so much of such expenses as exceeds 1.5 percent of such average but does not exceed 2 percent of such average, and

''(iii) 2.75 percent of so much of such expenses as exceeds 2 percent of such average.

''(B) ELECTION.—An election under this paragraph may be made only for the first taxable year of the taxpayer beginning after June 30, 1995. Such an election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.''

(d) INCREASED CREDIT FOR CONTRACT RESEARCH EXPENSES WITH RESPECT TO CERTAIN RESEARCH CONSORTIA.—Paragraph (3) of section 41(b) is amended by adding at the end the following new subparagraph:

''(C) AMOUNTS PAID TO CERTAIN RESEARCH CONSORTIA.—

''(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting '75 percent' for '65 percent' with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research.

''(ii) QUALIFIED RESEARCH CONSORTIUM.—The term 'qualified research consortium' means any organization described in subsection (e)(6)(B) if—

''(I) at least 15 unrelated taxpayers paid (during the calendar year in which the taxable year of the taxpayer begins) amounts to such organization for qualified research,

''(II) no 3 persons paid during such calendar year more than 50 percent of the total amounts paid during such calendar year for qualified research, and

''(III) no person contributed more than 20 percent of such total amounts.

For purposes of subclause (I), all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers.''

(e) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking ''June 30, 1995'' and inserting ''December 31, 1997''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after June 30, 1995.

(2) SUBSECTIONS (c) AND (d).—The amendments made by subsections (c) and (d) shall apply to taxable years beginning after June 30, 1995.

SEC. 13104. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(5) is amended by striking ''December 31, 1994'' and inserting ''December 31, 1997''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 1994.

SEC. 13105. CREDIT FOR CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 28 is amended by striking ''December 31, 1994'' and inserting ''December 31, 1997''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1994.

PART II—PERMANENT EXTENSION OF FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS

SEC. 13106. FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS.

(a) IN GENERAL.—Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking ''before January 1, 1995,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services performed after December 31, 1994.

PART III—COMMERCIAL AVIATION FUEL

SEC. 13111. DELAY OF SCHEDULED INCREASE IN TAX ON FUEL USED IN COMMERCIAL AVIATION.

(a) 2-YEAR DELAY.—Sections 4092(b)(2), 6421(f)(2)(B), and 6427(l)(4)(B) are each amended by striking ''September 30, 1995'' and inserting ''September 30, 1997''.

(b) CONFORMING AMENDMENT.—Section 13245 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on September 30, 1995.

(2) CROSS REFERENCE.—

For refund of tax paid on commercial aviation fuel before the date of the enactment of this Act, see section 6427(l) of the Internal Revenue Code of 1986.

(d) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of commercial aviation fuel which is held by any person on October 1, 1997, there is hereby imposed a floor stocks tax equal to 4.3 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on October 1, 1997, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before April 30, 1998.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Aviation fuel shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) COMMERCIAL AVIATION FUEL.—The term ''commercial aviation fuel'' means aviation fuel (as defined in section 4093 of such Code) which is held on October 1, 1997, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).

(C) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code (other than the rate imposed by section 4091(b)(2) of such Code) is allowable for aviation fuel so used.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on October 1, 1997, by any person if the aggregate amount of commercial aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

(f) STUDY.—The Secretary of the Treasury or his delegate shall, in consultation with the Secretary of Transportation, conduct a study of the Federal excise tax burdens on each of the various modes of transportation and the benefits provided to each such mode from revenues derived from such excise taxes. The results of such study shall be submitted not later than June 30, 1996, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART IV—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES

SEC. 13116. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.

(a) FUEL TAX.—

(1) Subparagraph (A) of section 4091(b)(3) is amended by striking ''January 1, 1996'' and inserting ''October 1, 1996''.

(2) Paragraph (2) of section 4081(d), as amended by section 14721 of this Act, is amended by striking ''January 1, 1996'' and inserting ''October 1, 1996''.

(b) TICKET TAXES.—Sections 4261(g) and 4271(d) are each amended by striking ''January 1, 1996'' and inserting ''October 1, 1996''.

(c) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND.—

(1) Subsection (b) of section 9502 is amended by striking ''January 1, 1996'' each place it appears and inserting ''October 1, 1996''.

(2) Paragraph (3) of section 9502(f) is amended by striking ''December 31, 1995'' and inserting ''September 30, 1996''.

Subtitle B—Medical Savings Accounts

SEC. 13201. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

''SEC. 220. MEDICAL SAVINGS ACCOUNTS.

''(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed the lesser of—

''(A) $2,500, or

''(B) the deductible under the catastrophic health plan covering such individual.

If the catastrophic health plan covering such individual provides coverage for any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, subparagraph (A) shall be applied by substituting '$5,000' for '$2,500'. The preceding sentence shall not apply if the spouse or any dependent (as so defined) of such individual is covered under any other catastrophic health plan.

''(2) SPECIAL RULE FOR MARRIED INDIVIDUALS.—

''(A) IN GENERAL.—This subsection shall be applied separately for each married individual.

''(B) SPECIAL RULE.—If individuals who are married to each other are covered under the same catastrophic health plan, then the amounts applicable under subparagraphs (A) and (B) of paragraph (1) shall be divided equally between them unless they agree on a different division.

''(3) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

''(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

''(B) in a case described in paragraph (2), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

''(4) PRORATION OF LIMITATION.—

''(A) IN GENERAL.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

''(i) such individual is not an eligible individual for all months of the taxable year,

''(ii) the deductible under the catastrophic health plan covering such individual is not the same throughout such taxable year, or

''(iii) such limitation is determined using the next to the last sentence of paragraph (1) for some but not all months during such taxable year.

''(B) MONTHLY LIMITATION.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month that such individual is covered under a catastrophic health plan were true for the entire taxable year.

''(5) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual—

''(i) who is covered under a catastrophic health plan at any time during such month, and

''(ii) who is not, while covered under a catastrophic health plan, covered under any health plan—

''(I) which is not a catastrophic health plan, and

''(II) which provides coverage for any benefit which is covered under the catastrophic health plan.

''(B) CERTAIN COVERAGE DISREGARDED.—Subparagraph (A)(ii) shall be applied without regard to—

''(i) coverage for any benefit provided by permitted insurance, and

''(ii) coverage (whether through insurance or otherwise) for accidents, dental care, vision care, or long-term care.

''(2) CATASTROPHIC HEALTH PLAN.—The term 'catastrophic health plan' means any health plan which provides no compensation for an individual's expenses covered by the plan for any calendar year to the extent such expenses for such calendar year do not exceed $1,500 ($3,000 if the catastrophic health plan covering the taxpayer provides coverage for more than 1 individual) or such higher amounts as may be specified by the plan.

''(3) PERMITTED INSURANCE.—The term 'permitted insurance' means—

''(A) Medicare supplemental insurance,

''(B) insurance if substantially all of the coverage provided under such insurance relates to—

''(i) liabilities incurred under workers' compensation laws,

''(ii) tort liabilities,

''(iii) liabilities relating to ownership or use of property,

''(iv) credit insurance, or

''(v) such other similar liabilities as the Secretary may specify by regulations,

''(C) insurance for a specified disease or illness, and

''(D) insurance paying a fixed amount per day (or other period) of hospitalization.

''(d) MEDICAL SAVINGS ACCOUNT.—For purposes of this section—

''(1) MEDICAL SAVINGS ACCOUNT.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

''(A) Except in the case of a rollover contribution described in subsection (f)(4), no contribution will be accepted unless it is in cash.

''(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts.

''(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(E) The interest of an individual in the balance in his account is nonforfeitable.

''(2) QUALIFIED MEDICAL EXPENSES.—

''(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder—

''(i) for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise, or

''(ii) for long-term care insurance for such individual, spouse, or dependent.

''(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Subparagraph (A)(i) shall not apply to any payment for insurance.

''(3) ACCOUNT HOLDER.—The term 'account holder' means the individual on whose behalf the medical savings account was established.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

''(A) Section 219(d)(2) (relating to no deduction for rollovers).

''(B) Section 219(f)(3) (relating to time when contributions deemed made).

''(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

''(D) Section 408(g) (relating to community property laws).

''(E) Section 408(h) (relating to custodial accounts).

''(e) TAX TREATMENT OF ACCOUNTS.—

''(1) ACCOUNT TAXED AS GRANTOR TRUST.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the account holder of a medical savings account shall be treated for purposes of this title as the owner of such account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

''(B) TREATMENT OF CAPITAL LOSSES.—With respect to assets held in a medical savings account, any capital loss for a taxable year from the sale or exchange of such an asset shall be allowed only to the extent of capital gains from such assets for such taxable year. Any capital loss which is disallowed under the preceding sentence shall be treated as a capital loss from the sale or exchange of such an asset in the next taxable year. For purposes of this subparagraph, all medical savings accounts of the account holder shall be treated as 1 account.

''(2) ACCOUNT ASSETS TREATED AS DISTRIBUTED IN THE CASE OF PROHIBITED TRANSACTIONS OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

''(3) TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—

''(A) IN GENERAL.—A trust shall not constitute a medical savings account unless the written governing instrument provides that, if the account holder dies while there is a balance in the account, the entire balance of the account holder will be distributed within 5 years after the death of the account holder.

''(B) EXCEPTION WHERE SPOUSE BECOMES ACCOUNT HOLDER.—Subparagraph (A) shall not apply if the account is payable to (or for the benefit of) the surviving spouse of the decedent.

''(f) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

''(A) IN GENERAL.—No amount shall be included in the gross income of the account holder by reason of a payment or distribution from a medical savings account which is used exclusively to pay the qualified medical expenses of the account holder. Any amount paid or distributed from a medical savings account which is not so used shall be included in the gross income of such holder to the extent such amount does not exceed the excess of—

''(i) the aggregate contributions to such account which were allowed as a deduction under this section or which were excluded under section 106(b), over

''(ii) the aggregate prior payments or distributions from such account which were includible in gross income under this paragraph.

''(B) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) all medical savings accounts of the account holder shall be treated as 1 account,

''(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

''(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

''(2) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

''(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 10 percent of the amount of such payment or distribution which is includible in gross income under paragraph (1).

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

''(i) attains age 59½,

''(ii) becomes disabled within the meaning of section 72(m)(7), or

''(iii) dies.

''(3) WITHDRAWAL OF EXCESS CONTRIBUTIONS.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account if—

''(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

''(B) no deduction is allowed under this section with respect to such contribution, and

''(C) such distribution is accompanied by the amount of net income attributable to such contribution.

In the case of such a distribution, for purposes of section 61, any net income described in subparagraph (C) shall be deemed to have been earned and receivable in the taxable year in which such contribution is made.

''(4) ROLLOVERS.—Paragraph (1) shall not apply to any amount paid or distributed out of a medical savings account to the account holder if the entire amount received (including money and any other property) is paid into another medical savings account for the benefit of such holder not later than the 60th day after the day on which he received the payment or distribution.

''(5) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care to the extent of the amount of such payment or distribution which is excludable from gross income solely by reason of paragraph (1)(A).

''(g) COST-OF-LIVING ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount in subsection (b)(1) or in subsection (c)(2) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the medical care cost adjustment for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

''(2) MEDICAL CARE COST ADJUSTMENT.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

''(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

''(B) such component for August of 1995.

''(h) REPORTS.—The trustee of a medical savings account shall make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.''

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

''(16) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 220.''

(c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) EXCLUSION FROM INCOME TAX.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

''(a) GENERAL RULE.—Gross income of an employee does not include employer-provided coverage under an accident or health plan.

''(b) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

''(1) IN GENERAL.—In the case of an employee who is an eligible individual, gross income does not include amounts contributed by such employee's employer to any medical savings account of such employee.

''(2) COORDINATION WITH DEDUCTION LIMITATION.—The amount excluded from the gross income of an employee under this subsection for any taxable year shall not exceed the limitation under section 220(b)(1) (determined without regard to this subsection) which is applicable to such employee for such taxable year.''

''(3) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

''(4) SPECIAL RULE FOR DEDUCTION OF EMPLOYER CONTRIBUTIONS.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

''(5) DEFINITIONS.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 220.''

(2) EXCLUSION FROM EMPLOYMENT TAXES.—

(A) SOCIAL SECURITY TAXES.—

(i) Subsection (a) of section 3121 is amended by striking ''or'' at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ''; or'', and by inserting after paragraph (21) the following new paragraph:

''(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).''

(ii) Subsection (a) of section 209 of the Social Security Act is amended by striking ''or'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ''; or'', and by inserting after paragraph (18) the following new paragraph:

''(19) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b) of the Internal Revenue Code of 1986.''

(B) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

''(10) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).''

(C) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by striking ''or'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ''; or'', and by inserting after paragraph (16) the following new paragraph:

''(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).''

(D) WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking ''or'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ''; or'', and by inserting after paragraph (20) the following new paragraph:

''(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).''

(d) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS NOT AVAILABLE UNDER CAFETERIA PLANS.—Subsection (f) of section 125 is amended by inserting ''106(b),'' before ''117''.

(e) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to tax on prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

''(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2) to such account.'', and

(2) by inserting ''or a medical savings account described in section 220(d)'' in subsection (e)(1) after ''described in section 408(a)''.

(f) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—Section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended—

(1) by inserting ''**OR ON MEDICAL SAVINGS ACCOUNTS**'' after ''**ANNUITIES**'' in the heading of such section, and

(2) by adding at the end of subsection (a) the following: ''The person required by section 220(h) to file a report regarding a medical savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure to so file unless it is shown that such failure is due to reasonable cause.''

(g) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

''Sec. 220. Medical savings accounts.

''Sec. 221. Cross reference.''

(2) The table of sections for subchapter B of chapter 68 is amended by inserting ''or on medical savings accounts'' after ''annuities'' in the item relating to section 6693.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Pickle-Johnson Taxpayer Bill of Rights 2

PART I—TAXPAYER ADVOCATE

SEC. 13301. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)) is amended by adding at the end the following new subsection:

''(d) OFFICE OF TAXPAYER ADVOCATE.—

''(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by and report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the highest level official reporting directly to the Deputy Commissioner of the Internal Revenue Service.

''(2) FUNCTIONS OF OFFICE.—

''(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

''(i) assist taxpayers in resolving problems with the Internal Revenue Service,

''(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

''(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

''(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

''(B) ANNUAL REPORTS.—

''(i) OBJECTIVES.—Not later than June 30 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

''(ii) ACTIVITIES.—Not later than December 31 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

''(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

''(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

''(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

''(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

''(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

''(VI) contain an inventory of the items described in subclauses (II) and (III) for which

no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

''(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

''(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

''(IX) describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers, and

''(X) include such other information as the Taxpayer Advocate may deem advisable.

''(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the Committees referred to in clauses (i) and (ii) without any prior review or comment from the Commissioner, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

''(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner.''

(b) CONFORMING AMENDMENTS.—

(1) Section 7811 (relating to Taxpayer Assistance Orders) is amended—

(A) by striking ''the Office of Ombudsman'' in subsection (a) and inserting ''the Office of the Taxpayer Advocate'', and

(B) by striking ''Ombudsman'' each place it appears (including in the headings of subsections (e) and (f)) and inserting ''Taxpayer Advocate''.

(2) The heading for section 7802 is amended to read as follows:

''SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE.''

(3) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

''Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 13302. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) TERMS OF ORDERS.—Subsection (b) of section 7811 (relating to terms of Taxpayer Assistance Orders) is amended—

(1) by inserting ''within a specified time period'' after ''the Secretary'', and

(2) by inserting ''take any action as permitted by law,'' after ''cease any action,''.

(b) LIMITATION ON AUTHORITY TO MODIFY OR RESCIND.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

''(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded—

''(1) only by the Taxpayer Advocate, the Commissioner of Internal Revenue, the Deputy Commissioner of Internal Revenue, or a regional problem resolution officer, and

''(2) only if a written explanation of the reasons for the modification or rescission is provided to the Taxpayer Advocate.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

SEC. 13306. NOTIFICATION OF REASONS FOR TERMINATION OF INSTALLMENT AGREEMENTS.

(a) TERMINATIONS.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end the following new paragraph:

''(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

''(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

''(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.''

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

''(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 13307. ADMINISTRATIVE REVIEW OF TERMINATION OF INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end the following new subsection:

''(c) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of terminations of installment agreements under this section for taxpayers who request such a review.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1996.

PART III—ABATEMENT OF INTEREST AND PENALTIES

SEC. 13311. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting ''unreasonable'' before ''error'' each place it appears in subparagraphs (A) and (B), and

(2) by striking ''in performing a ministerial act'' each place it appears and inserting ''in performing a ministerial or managerial act''.

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended—

(1) by striking ''ASSESSMENTS'' and inserting ''ABATEMENT'', and

(2) by inserting ''UNREASONABLE'' before ''ERRORS''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 13312. REVIEW OF IRS FAILURE TO ABATE INTEREST.

(a) IN GENERAL.—Section 6404 is amended by adding at the end the following new subsection:

''(g) REVIEW OF DENIAL OF REQUEST FOR ABATEMENT OF INTEREST.—The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(iii) to determine whether the Secretary's failure to abate interest under this section was an abuse of discretion if such action is brought within 6 months after the date of the Secretary's final determination not to abate such interest.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests for abatement after the date of the enactment of this Act.

SEC. 13313. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

''(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6601(e)(2) is amended by striking ''10 days from the date of notice and demand therefor'' and inserting ''21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)''.

(2) Paragraph (3) of section 6651(a) is amended by striking ''10 days of the date of the notice and demand therefor'' and inserting ''21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after June 30, 1996.

PART IV—JOINT RETURNS

SEC. 13316. STUDIES OF JOINT RETURN-RELATED ISSUES.

The Secretary of the Treasury or his delegate and the Comptroller General of the United States shall each conduct separate studies of—

(1) the effects of changing the liability for tax on a joint return from being joint and several to being proportionate to the tax attributable to each spouse,

(2) the effects of providing that, if a divorce decree allocates liability for tax on a joint return filed before the divorce, the Secretary may collect such liability only in accordance with the decree,

(3) whether those provisions of the Internal Revenue Code of 1986 intended to provide relief to innocent spouses provide meaningful relief in all cases where such relief is appropriate, and

(4) the effect of providing that community income (as defined in section 66(d) of such Code) which, in accordance with the rules contained in section 879(a) of such Code, would be treated as the income of one spouse is exempt from a levy for failure to pay any tax imposed by subtitle A by the other spouse for a taxable year ending before their marriage.

The reports of such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 6 months after the date of the enactment of this Act.

SEC. 13317. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 13318. DISCLOSURE OF COLLECTION ACTIVITIES.

Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end the following new paragraph:

''(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing by either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected.''

PART V—COLLECTION ACTIVITIES

SEC. 13321. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end the following new subsection:

''(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

''(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

''(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

''(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

''(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

''(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice at the same office as the withdrawn notice. A copy of such notice of withdrawal shall be provided to the taxpayer.

''(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe.''

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

''(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

''(1) any property has been levied upon, and

''(2) the Secretary determines that—

''(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

''(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

''(C) the return of such property will facilitate the collection of the tax liability, or

''(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c).''

(c) MODIFICATIONS IN CERTAIN LEVY EXEMPTION AMOUNTS.—

(1) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(A) by striking ''If the taxpayer is the head of a family, so'' and inserting ''So'',

(B) by striking ''his household'' and inserting ''the taxpayer's household'', and

(C) by striking ''$1,650 ($1,550 in the case of levies issued during 1989)'' and inserting ''$2,500''.

(2) INFLATION ADJUSTMENT.—Section 6334 (relating to property exempt from levy) is amended by adding at the end the following new subsection:

''(f) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any calendar year beginning after 1996, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.''

(3) TECHNICAL AMENDMENT.—Paragraph (3) of section 6334(a) is amended by striking ''($1,050 in the case of levies issued during 1989)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXEMPT AMOUNTS.—The amendments made by subsection (c) shall take effect with respect to levies issued after December 31, 1995.

SEC. 13322. OFFERS-IN-COMPROMISE.

(a) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking ''$500.'' and inserting ''$100,000. However, such compromise shall be subject to continuing quality review by the Secretary.''

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

PART VI—INFORMATION RETURNS

SEC. 13326. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

''SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

''(a) IN GENERAL.—If any person willfully files a fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

''(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

''(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing),

''(2) the costs of the action, and

''(3) in the court's discretion, reasonable attorneys fees.

''(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within the later of—

''(1) 6 years after the date of the filing of the fraudulent information return, or

''(2) 1 year after the date such fraudulent information return would have been discovered by exercise of reasonable care.

''(d) COPY OF COMPLAINT FILED WITH IRS.—Any person bringing an action under subsection (a) shall provide a copy of the complaint to the Internal Revenue Service upon the filing of such complaint with the court.

''(e) FINDING OF COURT TO INCLUDE CORRECT AMOUNT OF PAYMENT.—The decision of the court awarding damages in an action brought under subsection (a) shall include a finding of the correct amount which should have been reported in the information return.

''(f) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A).''

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

''Sec. 7434. Civil damages for fraudulent filing of information returns.

''Sec. 7435. Cross references.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fraudulent information returns filed after the date of the enactment of this Act.

SEC. 13327. REQUIREMENT TO CONDUCT REASONABLE INVESTIGATIONS OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) REQUIRED REASONABLE VERIFICATION OF INFORMATION RETURNS.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART VII—AWARDING OF COSTS AND CERTAIN FEES

SEC. 13331. UNITED STATES MUST ESTABLISH THAT ITS POSITION IN PROCEEDING WAS SUBSTANTIALLY JUSTIFIED.

(a) GENERAL RULE.—Subparagraph (A) of section 7430(c)(4) (defining prevailing party) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(b) BURDEN OF PROOF ON UNITED STATES.—Paragraph (4) of section 7430(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) EXCEPTION IF UNITED STATES ESTABLISHES THAT ITS POSITION WAS SUBSTANTIALLY JUSTIFIED.—

''(i) GENERAL RULE.—A party shall not be treated as the prevailing party in a proceeding to which subsection (a) applies if the United States establishes that the position of the United States in the proceeding was substantially justified.

''(ii) PRESUMPTION OF NO JUSTIFICATION IF INTERNAL REVENUE SERVICE DIDN'T FOLLOW CERTAIN PUBLISHED GUIDANCE.—For purposes of clause (i), the position of the United States shall be presumed not to be substantially justified if the Internal Revenue Service did not follow its applicable published guidance in the administrative proceeding. Such presumption may be rebutted.

''(iii) APPLICABLE PUBLISHED GUIDANCE.—For purposes of clause (ii), the term 'applicable published guidance' means—

''(I) regulations, revenue rulings, revenue procedures, information releases, notices, and announcements, and

''(II) any of the following which are issued to the taxpayer: private letter rulings, technical advice memoranda, and determination letters.''

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 7430(c)(2) is amended by striking ''paragraph (4)(B)'' and inserting ''paragraph (4)(C)''.

(2) Subparagraph (C) of section 7430(c)(4), as redesignated by subsection (b), is amended by striking ''subparagraph (A)'' and inserting ''this paragraph''.

(3) Sections 6404(g) and 6656(c)(1), as amended by this title, are each amended by striking ''section 7430(c)(4)(A)(iii)'' and inserting ''section 7430(c)(4)(A)(ii)''.

SEC. 13332. INCREASED LIMIT ON ATTORNEY FEES.

Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking ''$75'' in clause (iii) of subparagraph (B) and inserting ''$110'',

(2) by striking ''an increase in the cost of living or'' in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following:

''In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.''

SEC. 13333. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end the following new sentence: ''Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence.''

SEC. 13334. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS.

Subsection (b) of section 7430 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

SEC. 13335. EFFECTIVE DATE.

The amendments made by this part shall apply in the case of proceedings commenced after the date of the enactment of this Act.

PART VIII—MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

SEC. 13336. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) GENERAL RULE.—Subsection (b) of section 7433 (relating to damages) is amended by striking ''$100,000'' and inserting ''$1,000,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 13337. COURT DISCRETION TO REDUCE AWARD FOR LITIGATION COSTS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.

(a) GENERAL RULE.—Paragraph (1) of section 7433(d) (relating to civil damages for certain unauthorized collection actions) is amended to read as follows:

''(1) AWARD FOR DAMAGES MAY BE REDUCED IF ADMINISTRATIVE REMEDIES NOT EXHAUSTED.—The amount of damages awarded under subsection (b) may be reduced if the court determines that the plaintiff has not exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

PART IX—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

SEC. 13341. PRELIMINARY NOTICE REQUIREMENT.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) PRELIMINARY NOTICE REQUIREMENT.—

''(1) IN GENERAL.—No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty.

''(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

''(3) STATUTE OF LIMITATIONS.—If a notice described in paragraph (1) with respect to any penalty is mailed before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the later of—

''(A) the date 90 days after the date on which such notice was mailed, or

''(B) if there is a timely protest of the proposed assessment, the date 30 days after the Secretary makes a final administrative determination with respect to such protest.

''(4) EXCEPTION FOR JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to proposed assessments made after June 30, 1996.

SEC. 13342. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 13318, is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

''(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

''(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13343. RIGHT OF CONTRIBUTION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end the following new subsection:

''(d) RIGHT OF CONTRIBUTION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY.—If more than 1 person is liable for the penalty under subsection (a) with respect to any tax, each person who paid such penalty shall be entitled to recover from other persons who are liable for such penalty an amount equal to the excess of the amount paid by such person over such person's proportionate share of the penalty. Any claim for such a recovery may be made only in a proceeding which is separate from, and is not joined with—

''(1) an action for collection of such penalty brought by the United States, or

''(2) a proceeding in which the United States files a counterclaim or third-party complaint for the collection of such penalty.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 13344. VOLUNTEER BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS EXEMPT FROM PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Section 6672 is amended by adding at the end the following new subsection:

''(e) EXCEPTION FOR VOLUNTARY BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—No penalty shall be imposed by subsection (a) on any unpaid, volunteer member of any board of trustees or directors of an organization exempt from tax under subtitle A if such member—

''(1) is solely serving in an honorary capacity,

''(2) does not participate in the day-to-day or financial operations of the organization, and

''(3) does not have actual knowledge of the failure on which such penalty is imposed.

The preceding sentence shall not apply if it results in no person being liable for the penalty imposed by subsection (a).''

(b) PUBLIC INFORMATION REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this subsection referred to as the ''Secretary'') shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(A) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(B) the development of a special information packet.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax- exempt organizations.

PART X—MODIFICATIONS OF RULES RELATING TO SUMMONSES

SEC. 13346. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.

(a) IN GENERAL.—Paragraph (3) of section 7609(a) (relating to third-party recordkeeper defined) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ''; and'', and by adding at the end the following the subparagraph:

''(I) any enrolled agent.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses issued after the date of the enactment of this Act.

SEC. 13347. SAFEGUARDS RELATING TO DESIGNATED SUMMONSES.

(a) STANDARD OF REVIEW.—Subparagraph (A) of section 6503(j)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

''(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,''.

(b) LIMITATION ON PERSONS TO WHOM DESIGNATED SUMMONS MAY BE ISSUED.—Paragraph (1) of section 6503(j) is amended by striking ''with respect to any return of tax by a corporation'' and inserting ''to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued after the date of the enactment of this Act.

SEC. 13348. ANNUAL REPORT TO CONGRESS CONCERNING DESIGNATED SUMMONSES.

Not later than December 31 of each calendar year after 1995, the Secretary of the Treasury or his delegate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the number of designated summonses (as defined in section 6503(j) of the Internal Revenue Code of 1986) which were issued during the preceding 12 months.

PART XI—RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

SEC. 13351. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

''(b) RETROACTIVITY OF REGULATIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

''(A) The date on which such regulation is filed with the Federal Register.

''(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

''(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

''(2) EXCEPTION FOR PROMPTLY ISSUED REGULATIONS.—Paragraph (1) shall not apply to regulations filed or issued within 12 months of the date of the enactment of the statutory provision to which the regulation relates.

''(3) PREVENTION OF ABUSE.—The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse.

''(4) CORRECTION OF PROCEDURAL DEFECTS.—The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

''(5) INTERNAL REGULATIONS.—The limitation of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices, or procedures.

''(6) CONGRESSIONAL AUTHORIZATION.—The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

''(7) ELECTION TO APPLY RETROACTIVELY.—Paragraph (1) shall not apply to any regulation which the taxpayer elects to apply before the dates specified in paragraph (1) but only if such election applies to all regulations which were issued with such regulation under the statutory provision to which such regulation relates.

''(8) APPLICATION TO RULINGS.—The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to regulations which relate to statutory provisions enacted on or after the date of the enactment of this Act.

PART XII—MISCELLANEOUS PROVISIONS

SEC. 13356. REPORT ON PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.

Not later than March 1, 1996, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service, together with such recommendations as he may deem advisable.

SEC. 13357. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking ''name and address'' and inserting ''name, address, and phone number of the information contact'':

(1) Section 6041(d)(1).
(2) Section 6041A(e)(1).
(3) Section 6042(c)(1).
(4) Section 6044(e)(1).
(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1996 (determined without regard to any extension).

SEC. 13358. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or his delegate from any taxpayer and the Secretary cannot associate such payment with such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 13359. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties), as amended by section 13316(a), is amended by redesignating section 7435 as section 7436 and by inserting after section 7434 the following new section:

''SEC. 7435. CIVIL DAMAGES FOR UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

''(a) IN GENERAL.—If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

''(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $500,000 or the sum of—

''(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the information disclosure, and

''(2) the costs of the action.

Damages shall not include the taxpayer's liability for any civil or criminal penalties, or other losses attributable to incarceration or the imposition of other criminal sanctions.

''(c) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

''(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date

the actions creating such liability would have been discovered by exercise of reasonable care.

''(e) MANDATORY STAY.—Upon a certification by the Commissioner or the Commissioner's delegate that there is an ongoing investigation or prosecution of the taxpayer, the district court before which an action under this section is pending, shall stay all proceedings with respect to such action pending the conclusion of the investigation or prosecution.

''(f) CRIME-FRAUD EXCEPTION.—Subsection (a) shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime.''

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76, as amended by section 13316(b), is amended by striking the item relating to section 7435 and by adding at the end the following new items:

''Sec. 7435. Civil damages for unauthorized enticement of information disclosure.

''Sec. 7436. Cross references.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

SEC. 13360. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.

''Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice.''

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7524. Annual notice of tax delinquency.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1995.

SEC. 13361. 5-YEAR EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking all that follows ''this Act'' and inserting a period.

(b) RESTORATION OF AUTHORITY FOR 5 YEARS.—Subsection (c) of section 7608 is amended by adding at the end the following new paragraph:

''(6) APPLICATION OF SECTION.—The provisions of this subsection—

''(A) shall apply after November 17, 1988, and before January 1, 1990, and

''(B) shall apply after the date of the enactment of this paragraph and before January 1, 2001.

All amounts expended pursuant to this subsection during the period described in subparagraph (B) shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before January 1, 2001.''

(c) ENHANCED OVERSIGHT.—

(1) ADDITIONAL INFORMATION REQUIRED IN REPORTS TO CONGRESS.—Subparagraph (B) of section 7608(c)(4) is amended—

(A) by striking ''preceding the period'' in clause (ii),

(B) by striking ''and'' at the end of clause (ii), and

(C) by striking clause (iii) and inserting the following:

''(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

''(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

''(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

''(II) the total expenditures under the operation and the amount and use of the proceeds from the operation,

''(III) a detailed description of the operation including the potential violation being investigated and whether the operation is being conducted under grand jury auspices, and

''(IV) the results of the operation including the results of criminal proceedings.''

(2) AUDITS REQUIRED WITHOUT REGARD TO AMOUNTS INVOLVED.—Subparagraph (C) of section 7608(c)(5) is amended to read as follows:

''(C) UNDERCOVER INVESTIGATIVE OPERATION.—The term 'undercover investigative operation' means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 13362. DISCLOSURE OF FORM 8300 INFORMATION ON CASH TRANSACTIONS.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(15) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, upon written request, disclose to officers and employees of—

''(A) any Federal agency,

''(B) any agency of a State or local government, or

''(C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6103 is amended by striking paragraph (8).

(2) Subparagraph (A) of section 6103(p)(3) is amended—

(A) by striking ''(7)(A)(ii), or (8)'' and inserting ''or (7)(A)(ii)'', and

(B) by striking ''or (14)'' and inserting ''(14), or (15)''.

(3) The material preceding subparagraph (A) of section 6103(p)(4) is amended—

(A) by striking ''(5), or (8)'' and inserting ''or (5)'',

(B) by striking ''(i)(3)(B)(i), or (8)'' and inserting ''(i)(3)(B)(i),'', and

(C) by striking ''or (12)'' and inserting ''(12), or (15)''.

(4) Clause (ii) of section 6103(p)(4)(F) is amended—

(A) by striking ''(5), or (8)'' and inserting ''or (5)'', and

(B) by striking ''or (14)'' and inserting ''(14), or (15)''.

(5) Paragraph (2) of section 7213(a) is amended by striking ''or (12)'' and inserting ''(12), or (15)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 13363. DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER.

Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by striking ''written request for or consent to such disclosure'' and inserting ''request for or consent to such disclosure''.

SEC. 13364. STUDY OF NETTING OF INTEREST ON OVERPAYMENTS AND LIABILITIES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall—

(1) conduct a study of the manner in which the Internal Revenue Service has implemented the netting of interest on overpayments and underpayments and of the policy and administrative implications of global netting, and

(2) before submitting the report of such study, hold a public hearing to receive comments on the matters included in such study.

(b) REPORT.—The report of such study shall be submitted not later than 6 months after the date of the enactment of this Act to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 13365. CREDIT FOR EXPENSES OF CERTAIN TCMP AUDITS.

(a) IN GENERAL.—Subchapter B of chapter 65 is amended by adding at the end the following new section:

''SEC. 6428. CREDIT FOR EXPENSES OF 1994 TCMP AUDITS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to the qualified TCMP expenses paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATION.—The amount of the credit allowed by subsection (a) shall not exceed $3,000 with respect to an audit.

''(c) QUALIFIED TCMP EXPENSES.—For purposes of this section, the term 'qualified TCMP expenses' means amounts which would (but for subsection (d)) be allowed as a deduction under section 162 or 212(3) in connection with an audit under the Taxpayer Compliance Measurement Program of the taxpayer's return of tax imposed by chapter 1 for any taxable year beginning during 1994. Such term shall not include any expense in connection with an audit of an estate, trust, partnership, or S corporation.

''(d) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under chapter 1 for any amount for which a credit is allowed under this section.

''(e) CREDIT TREATED AS SUBPART C CREDIT.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C of part IV of subchapter A of chapter 1.''

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 6428 of such Code''.

(2) The table of sections for such subchapter B is amended by adding at the end the following new item:

''Sec. 6428. Credit for expenses of 1994 TCMP audits.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1994, in taxable years ending after such date.

SEC. 13366. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

(a) IN GENERAL.—Section 7623 (relating to expenses of deduction and punishment of frauds) is amended to read as follows:

"SEC. 7623. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

''The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums as he deem necessary for—

''(1) detecting underpayments of tax, and

''(2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same,

in cases where such expenses are not otherwise provided for by law. Any amount payable under the preceding sentence shall be paid from the proceeds of amounts (other than interest) collected by reason of the information provided, and any amount so collected shall be available for such payments.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623 and inserting the following new item:

''Sec. 7623. Expenses of detection of underpayments and fraud, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 6 months after the enactment of this Act.

(d) REPORT.—The Secretary of the Treasury or his delegate shall submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the payments under section 7623 of the Internal Revenue Code of 1986 during the year and on the amounts collected for which such payments were made.

Subtitle D—Additional Technical Corrections

SEC. 13401. REPORTING OF REAL ESTATE TRANSACTIONS.

(a) IN GENERAL.—Paragraph (3) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: ''Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 1015(e)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988.

SEC. 13402. CLARIFICATION OF DENIAL OF DEDUCTION FOR STOCK REDEMPTION EXPENSES.

(a) IN GENERAL.—Paragraph (1) of section 162(k) is amended by striking ''the redemption of its stock'' and inserting ''the reacquisition of its stock or of the stock of any related person (as defined in section 465(b)(3)(C))''.

(b) CERTAIN DEDUCTIONS PERMITTED.—Subparagraph (A) of section 162(k)(2) is amended by striking ''or'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) deduction for amounts which are properly allocable to indebtedness and amortized over the term of such indebtedness, or''.

(c) CLERICAL AMENDMENT.—The subsection heading for subsection (k) of section 162 is amended by striking ''REDEMPTION'' and inserting ''REACQUISITION''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid or incurred after September 13, 1995, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect as if included in the amendment made by section 613 of the Tax Reform Act of 1986.

SEC. 13403. CLARIFICATION OF DEPRECIATION CLASS FOR CERTAIN ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) (relating to 5-year property) is amended by adding at the end the following flush sentence:

''Nothing in any provision of law shall be construed to treat property as not being described in clause (vi)(I) (or the corresponding provisions of prior law) by reason of being public utility property (within the meaning of section 48(a)(3)).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 11813 of the Revenue Reconciliation Act of 1990.

SEC. 13404. CLERICAL AMENDMENT TO SECTION 404.

(a) IN GENERAL.—Paragraph (1) of section 404(j) is amended by striking ''(10)'' and inserting ''(9)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 713(d)(4)(A) of the Deficit Reduction Act of 1984.

SEC. 13405. TREATMENT OF CERTAIN VETERANS' REEMPLOYMENT RIGHTS.

(a) IN GENERAL.—Section 414 is amended by adding at the end the following new subsection:

''(u) SPECIAL RULES RELATING TO VETERANS' REEMPLOYMENT RIGHTS.—

''(1) TREATMENT OF CERTAIN CONTRIBUTIONS MADE PURSUANT TO VETERANS' REEMPLOYMENT RIGHTS.—If any contribution is made by an employer or an employee under an individual account plan with respect to an employee, or by an employee to a defined benefit pension plan that provides for employee contributions, and such contribution is required by reason of such employee's rights under chapter 43 of title 38, United States Code, resulting from qualified military service, then—

''(A) such contribution shall not be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, and shall not be taken into account in applying such limitations to other contributions or benefits under such plan or any other plan, with respect to the year in which the contribution is made,

''(B) such contribution shall be subject to the limitations referred to in subparagraph (A) with respect to the year to which the contribution relates (in accordance with rules prescribed by the Secretary), and

''(C) such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(m), 403(b)(12), 408(k)(3), 408(k)(6), 410(b), or 416 by reason of the making of such contribution.

For purposes of the preceding sentence, any elective deferral or employee contribution made under paragraph (2) shall be treated as required by reason of the employee's rights under such chapter.

''(2) REEMPLOYMENT RIGHTS WITH RESPECT TO ELECTIVE DEFERRALS.—

''(A) IN GENERAL.—For purposes of this subchapter and subchapter E, if an employee is entitled to the benefits of chapter 43 of title 38, United States Code, with respect to any plan which provides for elective deferrals, the employer sponsoring the plan shall be treated as meeting the requirements of such chapter 43 with respect to such elective deferrals only if such employer—

''(i) permits such employee to make additional elective deferrals under such plan (in the amount determined under subparagraph (B) or such lesser amount as is elected by the employee) during the period which begins on the date of the reemployment of such employee with such employer and has the same length as the lesser of—

''(I) the product of 3 and the period of qualified military service which resulted in such rights, and

''(II) 5 years, and

''(ii) makes a matching contribution with respect to any additional elective deferral made pursuant to clause (i) which would have been required had such deferral actually been made during the period of such qualified military service.

''(B) AMOUNT OF MAKEUP REQUIRED.—The amount determined under this subparagraph with respect to any plan is the maximum amount of the elective deferrals that the individual would have been permitted to make under the plan in accordance with the limitations referred to in paragraph (1)(A) during his period of qualified military service if he had continued to be employed by the employer during such period and received compensation as determined under paragraph (7). Proper adjustment shall be made to the amount determined under the preceding sentence for any elective deferrals actually made during the period of such qualified military service.

''(C) ELECTIVE DEFERRAL.—For purposes of this paragraph, the term 'elective deferral' has the meaning given such term by section 402(g)(3); except that such term shall include any deferral of compensation under an eligible deferred compensation plan (as defined in section 457(b)).

''(D) AFTER-TAX EMPLOYEE CONTRIBUTIONS.—References in subparagraphs (A) and (B) to elective deferrals shall be treated as including references to other employee contributions.

''(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT REQUIRED.—For purposes of this subchapter and subchapter E, no provision of chapter 43 of title 38, United States Code, shall be construed as requiring—

''(A) any crediting of earnings to an employee with respect to any contribution before such contribution is actually made, or

''(B) any allocation of any forfeiture with respect to the period of qualified military service.

''(4) LOAN REPAYMENT SUSPENSIONS PERMITTED.—If any plan suspends the obligation to repay any loan made to an employee from such plan for any part of any period during which such employee is performing qualified military service, such suspension shall not be taken into account for purposes of section 72(p), 401(a), or 4975(d)(1).

''(5) QUALIFIED MILITARY SERVICE.—For purposes of this subsection, the term 'qualified military service' means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

''(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term 'individual account plan' means any defined contribution plan, any tax-sheltered annuity plan under section 403(b), and any eligible deferred compensation plan (as defined in section 457(b)).

''(7) COMPENSATION.—For purposes of section 415(c)(3), an employee who is in qualified military service shall be treated as receiving compensation from the employer during such period of qualified military service equal to—

''(A) the compensation the employee would have received during such period if the employee were not in qualified military service,

determined based on the rate of pay the employee would have received from the employer but for absence during the period of qualified military service, or

''(B) if the compensation of the employee was not based on a fixed rate, the employee's average compensation from the employer during the 12-month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

''(8) REQUIREMENTS FOR QUALIFIED RETIREMENT PLAN.—For purposes of this subchapter and subchapter E, an employer sponsoring a plan shall be treated as meeting the requirements of chapter 43 of title 38, United States Code, only if each of the following requirements is met:

''(A) An individual reemployed under such chapter is treated with respect to such plan as not having incurred a break in service with the employer maintaining the plan by reason of such individual's period of qualified military service.

''(B) Each period of qualified military service served by an individual is, upon reemployment under such chapter, deemed with respect to such plan to constitute service with the employer maintaining the plan for the purpose of determining the nonforfeitability of the individual's accrued benefits under such plan and for the purpose of determining the accrual of benefits under such plan.

''(C) An individual reemployed under such chapter is entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals only to the extent the individual makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the individual would have been permitted or required to contribute had the individual remained continuously employed by the employer throughout the period of qualified military service. Any payment to such plan shall be made during the period beginning with the date of reemployment and whose duration is 3 times the period of the qualified military service (but not greater than 5 years).

''(9) REFERENCES.—For purposes of this section, any reference to chapter 43 of title 38, United States Code, shall be treated as a reference to such chapter as in effect on December 12, 1994 (without regard to any subsequent amendment).''

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective as of December 12, 1994.

Subtitle E—Tax Information Sharing

SEC. 13501. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking ''Clause (viii) shall not apply after September 30, 1998.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle F—Revenue Increases

PART I—PROVISIONS RELATING TO BUSINESSES

SEC. 13601. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

''(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.''

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

''(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

''(A) REDEMPTIONS.—In the case of any redemption of stock—

''(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

''(ii) which is not pro rata as to all shareholders, or

''(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

''(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A).''

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting ''September 13, 1995'' for ''May 3, 1995''.

SEC. 13602. REGISTRATION OF CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

''(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

''(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

''(A) a significant purpose of which is the avoidance or evasion of Federal income tax for a participant which is a corporation,

''(B) which is offered to any potential participant under conditions of confidentiality, and

''(C) for which the tax shelter organizers may receive fees in excess of $100,000 in the aggregate.

''(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(C), an offer is under conditions of confidentiality if—

''(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

''(B) any promoter of the tax shelter—

''(i) claims, knows, or has reason to know,

''(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

''(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person who participates in the organization, management, or sale of the tax shelter.

''(3) PERSONS OTHER THAN ORGANIZER REQUIRED TO REGISTER IN CERTAIN CASES.—

''(A) IN GENERAL.—If—

''(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter organizer, and

''(ii) no tax shelter organizer is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

''(i) such person notified the promoter in writing (not later than the close of the day on which such discussions began) that such person would not participate in such shelter, and

''(ii) such person does not participate in such shelter.

''(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.''

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

''(3) CONFIDENTIAL ARRANGEMENTS.—

''(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

''(i) 50 percent of the fees paid to any promoter of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

''(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

''(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

''(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

''(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

''(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.''

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking ''The penalty'' and inserting ''Except as provided in paragraph (3), the penalty''.

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3), as the case may be''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the date of the enactment of this Act.

(2) DUE DATE FOR REGISTRATION.—The due date for registering any tax shelter required to be registered by reason of the amendments made by this section shall be not earlier than the close of a reasonable period after the Secretary of the Treasury prescribes guidance with respect to meeting such requirements.

SEC. 13603. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—

(1) by inserting ''or endowment or annuity contract'' after ''life insurance policies'', and

(2) by striking all that follows ''carried on by the taxpayer'' and inserting a period.

(b) PHASE-IN OF DISALLOWANCE.—Section 264 is amended by adding at the end the following new subsection:

''(d) PHASE-IN OF DISALLOWANCE UNDER SUBSECTION (a)(4).—In the case of calendar years after 1995 and before 2000—

''(1) IN GENERAL.—The amount of interest paid or accrued during any period in any such calendar year with respect to qualified indebtedness which is disallowed by reason of the amendment made by section 13603(a) of the Revenue Reconciliation Act of 1995 (determined without regard to this subsection) shall not exceed the applicable percentage of such interest which is so disallowed.

''(2) QUALIFIED INDEBTEDNESS.—For purposes of paragraph (1), the term 'qualified indebtedness' means indebtedness incurred before September 18, 1995, with respect to a life insurance policy covering only the life of the individual who was insured under such policy on such date. Any increase on or after such date in the amount of such indebtedness shall be treated as indebtedness incurred after such date.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

''In the case of periods in calendar year:	**The applicable percentage is:**
1996	20 percent
1997	40 percent
1998	60 percent
1999	80 percent.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.

(2) EXCEPTION.—The amendments made by this section shall not apply to contracts purchased on or before June 20, 1986.

(d) 4-YEAR SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.—

(1) IN GENERAL.—In the case of indebtedness with respect to any life insurance policy described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986, if—

(A) the interest paid or accrued after December 31, 1995, on such indebtedness is not allowed as a deduction under chapter 1 of such Code by reason of such paragraph (4) (as amended by this section), and

(B) the entire amount of interest paid or accrued on or before such date on such indebtedness was allowed as a deduction under such chapter 1,

then (in lieu of any other inclusion in gross income) the qualified amount with respect to such policy shall be includible in gross income ratably over the 4 taxable years beginning with the taxable year such amount would (but for this paragraph) be includible.

(2) QUALIFIED AMOUNT.—For purposes of paragraph (1), the term ''qualified amount'' means, with respect to any policy, the amount received under such policy—

(A) on the complete surrender, redemption, or maturity of such policy during 1996, or

(B) in full discharge during 1996 of the obligation under the policy which is in the nature of a refund of the consideration paid for the policy,

but only to the extent such amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(3) SPECIAL RULE.—A contract shall not be treated as failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986 solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (2) of this subsection.

SEC. 13604. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

''(7) TERMINATION.—

''(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after September 13, 1995.

''(B) 20-YEAR PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—Each suspense account under this subsection shall be reduced (but not below zero) for each of the first 20 taxable years beginning after September 13, 1995, by an amount equal to the applicable portion of such account. Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction. The amount of the reduction required under this paragraph for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

''(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after September 13, 1995.

SEC. 13605. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

''(j) TERMINATION.—

''(1) IN GENERAL.—This section shall not apply to any taxable year beginning after December 31, 1995.

''(2) EXCEPTION FOR EXISTING CLAIMANTS.—

''(A) IN GENERAL.—Paragraph (1) shall be applied by substituting '2005' for '1995' in the case of an existing credit claimant.

''(B) EXCEPTION TERMINATES IF NEW LINE OF BUSINESS ADDED.—If, after September 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business, such corporation shall cease to be treated as an existing credit claimant as of the close of the taxable year ending before the date of such addition.

''(C) EXISTING CREDIT CLAIMANT.—For purposes of this subsection, the term 'existing credit claimant' means any corporation which satisfied the conditions of both subparagraph (A) and subparagraph (B) of subsection (a)(2) for at least 1 base period year for which such corporation elected the application of this section.

''(3) LIMIT ON CREDIT OF EXISTING CLAIMANTS.—

''(A) IN GENERAL.—In the case of an existing credit claimant, the aggregate amount of income taken into account under subsection (a)(1) for any taxable year beginning after December 31, 1995 (hereinafter in this subsection referred to as the 'current year'), shall not exceed the adjusted base period income of such claimant.

''(B) COORDINATION WITH SUBSECTION (a)(4).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph. In determining such reduction, any reduction under subparagraph (A) in the amount which would otherwise be taken into account under subsection (a)(1) shall be allocated between the income described in subparagraph (A) thereof and the income described in subparagraph (B) thereof in proportion to the respective amounts of such incomes.

''(4) ADJUSTED BASE PERIOD INCOME.—For purposes of paragraph (3)—

''(A) IN GENERAL.—The term 'adjusted base period income' means the average of the inflation-adjusted possession incomes of the corporation for each base period year.

''(B) INFLATION-ADJUSTED POSSESSION INCOME.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the possession income of such corporation for such base period year multiplied by the inflation adjustment percentage for such base period year.

''(C) INFLATION ADJUSTMENT PERCENTAGE.—For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means, with respect to the current year, the percentage (if any) by which—

''(i) the CPI for last calendar year ending before the beginning of the current year, exceeds

''(ii) the CPI for last calendar year ending before the beginning of the base period year.

For purposes of the preceding sentence, the CPI for any calendar year is the CPI (as defined in section 1(f)(5)) for such year under section 1(f)(4).

''(D) INCREASE IN INFLATION ADJUSTMENT PERCENTAGE FOR GROWTH DURING BASE YEARS.—The inflation adjustment percentage (determined under subparagraph (C) without regard to this subparagraph) for each of the 5 taxable years referred to in paragraph (5)(A) shall be increased by—

''(i) 5 percentage points in the case of a taxable year ending during the 1-year period ending on September 12, 1995;

''(ii) 10.25 percentage points in the case of a taxable year ending during the 1-year period ending on September 12, 1994;

''(iii) 15.76 percentage points in the case of a taxable year ending during the 1-year period ending on September 12, 1993;

''(iv) 21.55 percentage points in the case of a taxable year ending during the 1-year period ending on September 12, 1992; and

''(v) 27.63 percentage points in the case of a taxable year ending during the 1-year period ending on September 12, 1991.

''(5) BASE PERIOD YEAR.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'base period year' means each of 3 taxable years which

are among the 5 most recent taxable years of the corporation ending before September 13, 1995, determined by disregarding—

''(i) one taxable year for which the corporation had the largest inflation-adjusted possession income, and

''(ii) one taxable year for which the corporation had the smallest inflation-adjusted possession income.

''(B) CORPORATIONS NOT HAVING SIGNIFICANT POSSESSION INCOME THROUGHOUT 5-YEAR PERIOD.—

''(i) IN GENERAL.—If a corporation does not have significant possession income for each of the most recent 5 taxable years ending before September 13, 1995, then, in lieu of applying subparagraph (A), the term 'base period year' means only those taxable years (of such 5 taxable years) for which the corporation has significant possession income; except that, if such corporation has significant possession income for 4 of such 5 taxable years, the rule of subparagraph (A)(ii) shall apply.

''(ii) SPECIAL RULE.—If there is no year (of such 5 taxable years) for which a corporation has significant possession income—

''(I) the term 'base period year' means the first taxable year ending on or after September 13, 1995, but

''(II) the amount of possession income for such year which is taken into account under paragraph (4) shall be the amount which would be determined if such year were a short taxable year ending on August 31, 1995.

''(iii) SIGNIFICANT POSSESSION INCOME.—For purposes of this subparagraph, the term 'significant possession income' means possession income which exceeds 2 percent of the possession income of the taxpayer for the taxable year (of the period of 6 taxable years ending with the first taxable year ending on or after September 13, 1995) having the greatest possession income.

''(C) ELECTION TO USE ONE BASE PERIOD YEAR.—

''(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means only the last taxable year of the corporation ending in calendar year 1992.

''(ii) ELECTION.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (II) and (III) of subsection (a)(4)(B)(iii) shall apply to the election under this subparagraph.

''(D) ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.

''(6) POSSESSION INCOME.—For purposes of this subsection, the term 'possession income' means the sum of the income referred to in subsection (a)(1)(A) and the income referred to in subsection (a)(1)(B). In no event shall possession income be treated as being less than zero.

''(7) SHORT YEARS.—If the current year or a base period year is a short taxable year, the application of this subsection shall be made with such annualizations as the Secretary shall prescribe.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13606. DEPRECIATION UNDER INCOME FORECAST METHOD.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

''(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

''(A) in determining the amount of the depreciation deduction under such method, the estimated income from the property shall include all estimated income from use of the property,

''(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

''(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

''(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

''(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

''(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income with respect to such property)—

''(i) the actual income from such property for periods before the close of the recomputation year, and

''(ii) an estimate of the future income with respect to such property for periods after the recomputation year,

''(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

''(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

''(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which, when placed in service by the taxpayer, had a basis of $100,000 or less.

''(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term 'recomputation year' means, with respect to any property, the third and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income from the property for such third or 10th taxable year (as the case may be) and each prior taxable year is within 10 percent of the estimated income from the property for each such year which was taken into account under paragraph (1)(A).

''(5) SPECIAL RULES.—

''(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this section, the following costs shall be treated as separate properties:

''(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

''(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

''(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which is an episode in a television series, estimated income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

''(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

''(ii) the earliest taxable year in which the taxpayer had a reasonable expectation that there would be a future syndication of such series.

''(C) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

''(D) DETERMINATIONS.—For purposes of this subsection, determinations of the amount of income from any property shall be determined in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

''(E) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

SEC. 13607. TRANSFERS OF EXCESS PENSION ASSETS.

(a) IN GENERAL.—Section 420 (relating to transfers of excess pension assets to retiree health accounts) is amended by adding at the end the following new subsection:

''(f) SIMILAR RULES TO APPLY TO OTHER TRANSFERS OF EXCESS PLAN ASSETS.—

''(1) IN GENERAL.—If there is a qualified unrestricted transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to an employer—

''(A) a trust which is part of such plan shall not be treated as failing to meet the requirements of section 401(a) solely by reason of such transfer (or any other action authorized under this section), and

''(B) such transfer shall not be treated as a prohibited transaction for purposes of section 4975.

The gross income of the employer shall include the amount of any qualified transfer made during the taxable year.

''(2) QUALIFIED UNRESTRICTED TRANSFER.—For purposes of this section—

''(A) IN GENERAL.—The term 'qualified unrestricted transfer' means a transfer—

''(i) of excess pension assets of a defined benefit plan to the employer, and

''(ii) with respect to which the requirements of subsection (c)(2)(A) are met (determined by treating such transfer as a qualified transfer).

''(B) COORDINATION WITH TRANSFERS TO RETIREE HEALTH ACCOUNTS.—Such term shall not include any qualified transfer (as defined in subsection (b)).

''(C) EXPIRATION.—No transfer in any taxable year beginning after December 31, 2000, shall be treated as a qualified unrestricted transfer.

''(3) DEFINITION AND SPECIAL RULE.—For purposes of this subsection—

''(A) EXCESS PENSION ASSETS.—The term 'excess pension assets' has the meaning given such term by subsection (e)(2); except that the amount thereof shall be the lesser of—

''(i) the amount determined as of the most recent valuation date of the plan preceding the transfer, or

''(ii) the amount determined as of January 1, 1995 (or, if January 1, 1995, is not a valuation date, the most recent prior valuation date).

''(B) COORDINATION WITH SECTION 412.—In the case of a qualified unrestricted transfer—

''(i) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

''(ii) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'.

''(C) TREATMENT OF TRANSFERS.—Except for purposes of this section, a qualified unrestricted transfer shall be treated as a qualified transfer to a health benefits account.''

(b) REVERSION TAX.—Section 4980 (relating to tax on reversion of qualified plan assets to employers) is amended by adding at the end the following new subsection:

''(e) SPECIAL RULES FOR QUALIFIED UNRESTRICTED TRANSFERS UNDER SECTION 420.—In the case of a qualified unrestricted transfer to which section 420(f) applies—

''(1) no tax shall be imposed by subsection (a) if such transfer occurs before July 1, 1996,

''(2) subsection (a) shall be applied by substituting '6.5 percent' for '20 percent' if such transfer occurs after June 30, 1996, and

''(3) subsection (d) shall not apply.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

PART II—LEGAL REFORMS

SEC. 13611. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

''(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;''.

(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: ''For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after December 31, 1995, in taxable years ending after such date.

(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

SEC. 13612. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

''(f) RETURN REQUIRED IN THE CASE OF PAYMENTS TO ATTORNEYS.—

''(1) IN GENERAL.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

''(2) APPLICATION OF SUBSECTION.—

''(A) IN GENERAL.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

''(B) EXCEPTION.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051.''

(b) REPORTING OF ATTORNEYS FEES PAYABLE TO CORPORATIONS.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys fees.

(c) EFFECTIVE DATE.—The amendment made by subsection (a), and subsection (b), shall apply to payments made after December 31, 1995.

PART III—TREATMENT OF INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP

SEC. 13616. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subsection (a) of section 877 is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—

''(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

''(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

''(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

''(B) the net worth of the individual as of such date is $500,000 or more.

In the case of the loss of United States citizenship in any calendar year after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1994' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.''

(b) EXCEPTIONS.—

(1) IN GENERAL.—Section 877 is amended by striking subsection (d), by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

''(c) TAX AVOIDANCE NOT PRESUMED IN CERTAIN CASES.—

''(1) IN GENERAL.—Subsection (a)(2) shall not apply to an individual if—

''(A) such individual is described in a subparagraph of paragraph (2) of this subsection, and

''(B) within the 1-year period beginning on the date of the loss of United States citizenship, such individual submits a ruling request for the Secretary's determination as to whether such loss has for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B.

''(2) INDIVIDUALS DESCRIBED.—

''(A) DUAL CITIZENSHIP, ETC.—An individual is described in this subparagraph if—

''(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, or

''(ii) the individual becomes (not later than the close of a reasonable period after loss of United States citizenship) a citizen of the country in which—

''(I) such individual was born,

''(II) if such individual is married, such individual's spouse was born, or

''(III) either of such individual's parents were born.

''(B) LONG-TERM FOREIGN RESIDENTS.—An individual is described in this subparagraph if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(ii) shall apply for purposes of this subparagraph.

''(C) RENUNCIATION UPON REACHING AGE OF MAJORITY.—An individual is described in this subparagraph if the individual's loss of United States citizenship occurs before such individual attains age 18½.

''(D) INDIVIDUALS SPECIFIED IN REGULATIONS.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary.''

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 877(b) of such Code is amended by striking ''subsection (c)'' and inserting ''subsection (d)''.

(c) TREATMENT OF PROPERTY DISPOSED OF IN NONRECOGNITION TRANSACTIONS; TREATMENT OF DISTRIBUTIONS FROM CERTAIN CONTROLLED FOREIGN CORPORATIONS.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

''(d) SPECIAL RULES FOR SOURCE, ETC.—For purposes of subsection (b)—

''(1) SOURCE RULES.—The following items of gross income shall be treated as income from sources within the United States:

''(A) SALE OF PROPERTY.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

''(B) STOCK OR DEBT OBLIGATIONS.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

''(C) INCOME OR GAIN DERIVED FROM CONTROLLED FOREIGN CORPORATION.—Any income or gain derived from stock in a foreign corporation but only—

''(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

''(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

''(II) the total value of the stock of such corporation, and

''(ii) to the extent such income or gain does not exceed the earnings and profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

''(2) GAIN RECOGNITION ON CERTAIN EXCHANGES.—

''(A) IN GENERAL.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and any gain shall be recognized for the taxable year which includes such date.

''(B) EXCHANGES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

''(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

''(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), and

''(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

''(C) EXCEPTION.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

''(D) SECRETARY MAY EXTEND PERIOD.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 15-year period beginning 5 years before the loss of United States citizenship for the 10-year period referred to therein.

''(E) SECRETARY MAY REQUIRE RECOGNITION OF GAIN IN CERTAIN CASES.—To the extent provided in regulations prescribed by the Secretary—

''(i) the removal of appreciated tangible personal property from the United States, and

''(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States,

shall be treated as an exchange to which this paragraph applies.

''(3) SUBSTANTIAL DIMINISHING OF RISKS OF OWNERSHIP.—For purposes of determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

''(A) the holding of a put with respect to such property (or similar property),

''(B) the holding by another person of a right to acquire the property, or

''(C) a short sale or any other transaction.''

(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED STATES SOURCE INCOME.—

(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: ''The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section.''

(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting ''(after any reduction in such tax under the last sentence of such subsection)'' after ''such subsection''.

(e) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—

''(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

''(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—

''(A) IN GENERAL.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1).''

(B) CREDIT FOR FOREIGN DEATH TAXES.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) CREDIT FOR FOREIGN DEATH TAXES.—

''(A) IN GENERAL.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

''(B) LIMITATION ON CREDIT.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

''(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

''(ii) such property's proportionate share of the excess of—

''(I) the tax imposed by subsection (a), over

''(II) the tax which would be imposed by section 2101 but for this section.

''(C) PROPORTIONATE SHARE.—For purposes of subparagraph (B), a property's proportionate share is the percentage which the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate.''

(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) is amended by striking ''more than 50 percent of'' and all that follows and inserting ''more than 50 percent of—

''(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

''(B) the total value of the stock of such corporation,''.

(2) GIFT TAX.—

(A) IN GENERAL.—Paragraph (3) of section 2501(a) is amended to read as follows:

''(3) EXCEPTION.—

''(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

''(B) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

''(C) EXCEPTION FOR CERTAIN INDIVIDUALS.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

''(D) CREDIT FOR FOREIGN GIFT TAXES.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph.''

(f) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

(1) IN GENERAL.—Section 877 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

''(1) IN GENERAL.—Any long-term resident of the United States who—

''(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country,

shall be treated for purposes of this section and sections 2107, 2501, and 6039F in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

''(2) LONG-TERM RESIDENT.—For purposes of this subsection, the term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in subparagraph (A) or (B) of paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

''(3) SPECIAL RULES.—

''(A) EXCEPTIONS NOT TO APPLY.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

''(B) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of this subsection, property which was held by the long-term resident on the date the individual first became a resident of the United States shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

''(4) AUTHORITY TO EXEMPT INDIVIDUALS.—This subsection shall not apply to an individual who is described in a category of individuals prescribed by regulation by the Secretary.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1).''

(2) CONFORMING AMENDMENTS.—

(A) Section 2107 is amended by striking subsection (d), by redesignating subsection (e) as subsection (d), and by inserting after subsection (d) (as so redesignated) the following new subsection:

''(e) CROSS REFERENCE.—

''For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).''

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

''(E) CROSS REFERENCE.—

''For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).''

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to—

(A) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(B) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after June 13, 1995.

(2) SPECIAL RULE.—

(A) IN GENERAL.—In the case of an individual who performed an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)) before February 6, 1995, but who did not, on or before such date, furnish to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of such act, the amendments made by this section shall apply to such individual except that—

(i) the 10-year period described in section 877(a) of such Code shall not expire before the end of the 10-year period beginning on the date such statement is so furnished, and

(ii) the 1-year period referred to in section 877(c) of such Code, as amended by this section, shall not expire before the date which is 1 year after the date of the enactment of this Act.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the individual establishes to the satisfaction of the Secretary of the Treasury that such loss of United States citizenship occurred before February 6, 1994.

SEC. 13617. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

''SEC. 6039F. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

''(1) provided not later than the earliest date of any act referred to in subsection (c), and

''(2) provided to the person or court referred to in subsection (c) with respect to such act.

''(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

''(1) the taxpayer's TIN,

''(2) the mailing address of such individual's principal foreign residence,

''(3) the foreign country in which such individual is residing,

''(4) the foreign country of which such individual is a citizen,

''(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

''(6) such other information as the Secretary may prescribe.

''(c) ACTS DESCRIBED.—For purposes of this section, the acts referred to in this subsection are—

''(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

''(4) the cancellation by a court of the United States of a naturalized citizen's certificate of naturalization.

''(d) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

''(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

''(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

''(e) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

''(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

''(A) a copy of any such statement, and

''(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

''(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

''(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

''(f) REPORTING BY LONG-TERM LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

''(g) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Information on individuals losing United States citizenship.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) after the date of the enactment of this Act, and

(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs after such date.

SEC. 13618. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

PART IV—REFORMS RELATING TO ENERGY PROVISIONS

SEC. 13621. TERMINATION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) FACILITIES MUST BE PLACED IN SERVICE BEFORE SEPTEMBER 14, 1995.—Paragraph (3) of section 45(c) (defining qualified facility) is amended by striking ''July 1, 1999'' and inserting ''September 14, 1995''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years ending after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by this section shall not apply to any facility—

(A) which is constructed or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such construction or acquisition, and

(B) which is placed in service before September 14, 1996.

SEC. 13622. EXCLUSION FOR ENERGY CONSERVATION SUBSIDIES LIMITED TO SUBSIDIES WITH RESPECT TO DWELLING UNITS.

(a) IN GENERAL.—Paragraph (1) of section 136(c) (defining energy conservation measure) is amended by striking ''energy demand—'' and all that follows and inserting

''energy demand with respect to a dwelling unit.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 136 is amended to read as follows:

''(a) EXCLUSION.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure.''

(2) Paragraph (2) of section 136(c) is amended—

(A) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(B) by striking ''AND SPECIAL RULES'' in the paragraph heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after September 13, 1995, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter.

PART V—REFORMS RELATING TO NONRECOGNITION PROVISIONS

SEC. 13626. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.

(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:

''(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—

''(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

''(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

''(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

''(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

''(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

''(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

''(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

''(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

''(i) first to property which is similar or related in service or use to the converted property,

''(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

''(iii) then to other property.

''(D) SPECIAL RULES.—

''(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

''(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (determined without regard to such reduction).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 13627. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

''(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

''(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

''(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

''(A) a C corporation,

''(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

''(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000. In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

''(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 13628. NO ROLLOVER OR EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE WHICH IS ATTRIBUTABLE TO DEPRECIATION DEDUCTIONS.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) is amended by adding at the end the following new paragraph:

''(3) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any residence as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such residence.''

(b) COMPARABLE TREATMENT UNDER 1-TIME EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.—Subsection (d) of section 121 is amended by adding at the end the following new paragraph:

''(10) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—

''(A) IN GENERAL.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such property.

''(B) COORDINATION WITH PARAGRAPH (5).—If this section does not apply to gain attributable to a portion of a residence by reason of paragraph (5), subparagraph (A) shall not apply to depreciation adjustments attributable to such portion.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 13629. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE BY NONCITIZENS LIMITED TO NEW RESIDENCES LOCATED IN THE UNITED STATES.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) (as amended by section 13628) is amended by adding at the end the following new paragraph:

''(4) NEW RESIDENCE MUST BE LOCATED IN UNITED STATES IN CERTAIN CASES.—

''(A) IN GENERAL.—In the case of a sale of an old residence by a taxpayer—

''(i) who is not a citizen of the United States at the time of sale, and

''(ii) who is not a citizen or resident of the United States on the date which is 2 years after the date of the sale of such old residence,

subsection (a) shall apply only if the new residence is located in the United States or a possession of the United States.

''(B) PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.—Subparagraph (A) shall not apply if—

''(i) the old residence is held by a husband and wife as joint tenants, tenants by the entirety, or community property,

''(ii) such husband and wife make a joint return for the taxable year of the sale or exchange, and

''(iii) one spouse is a citizen of the United States at the time of sale.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to sales of old residences after December 31, 1995.

(2) TREATMENT OF PURCHASES OF NEW RESIDENCES.—The amendment made by this section shall not apply to new residences—

(A) purchased before September 13, 1995, or

(B) purchased on or after such date pursuant to a binding contract in effect on such date and at all times thereafter before such purchase.

(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (1), (2), and (3) of section 1034(c) of the Internal Revenue Code of 1986 shall apply.

PART VI—REFORMS RELATING TO GAMING ACTIVITIES

SEC. 13631. TREATMENT OF INDIAN GAMING ACTIVITIES UNDER UNRELATED BUSINESS INCOME TAX.

(a) IN GENERAL.—Paragraph (2) of section 511(a) (relating to imposition of tax on unrelated business income of charitable, etc., organizations) is amended by adding at the end the following new subparagraph:

''(C) GAMING ACTIVITIES OF INDIAN TRIBES.—

''(i) IN GENERAL.—The tax imposed by paragraph (1) shall apply to any Indian tribal organization; except that, notwithstanding any

other provision of this part, in the case of such an organization, the term 'unrelated trade or business' means only a trade or business of conducting any class II or class III gaming activity (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), as in effect on the date of the enactment of this subparagraph), including a gaming activity described in section 513(a)(1).

''(ii) INDIAN TRIBAL ORGANIZATION.—For purposes of clause (i), the term 'Indian tribal organization' means any Indian tribe and any organization which is immune or exempt from tax under this subtitle solely by reason of being owned or controlled by an Indian tribe.''

(b) TREATMENT OF AMOUNTS PAID FOR CHARITABLE PURPOSES, ETC., BY REASON OF STATE OR FEDERAL LAW.—Subsection (b) of section 512 is amended by adding at the end the following new paragraph:

''(17) In the case of an Indian tribal organization (as defined in section 511(a)(3)), if, by reason of State or Federal law or of a contract with the United States or with any State or political subdivision thereof, such organization is required to use any portion of the net proceeds of any gaming activity for specified purposes, the deduction for so using such proceeds shall be treated as allowed under section 170 for purposes of applying paragraph (10). The preceding sentence shall not apply to such proceeds which are paid as general revenues to the United States or to any State or political subdivision thereof.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

(d) STUDY OF GAMBLING CONDUCTED BY TAX-EXEMPT ORGANIZATIONS.—The Secretary of the Treasury or his delegate shall conduct a study on the nature and extent of gaming activities conducted by organizations exempt from tax under section 501(a) of the Internal Revenue Code of 1986, including an examination of—

(1) the types of gaming activities (including bingo, pull tabs, and casino nights) engaged in by charities and other nonprofit organizations and the frequency of such activities;

(2) the dollar volume of such gaming activities;

(3) the nature and extent of the involvement of for-profit entities and private parties in the management or operation of gaming activities of such organizations;

(4) competition between taxable gaming activities and gaming activities that are exempt from Federal income tax; and

(5) an analysis of the present law tax treatment of gaming activities of tax-exempt organizations.

The study may include any recommendations for change, including examination of the South End decision and the special exception for bingo games. The Secretary shall submit the results of the study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1996.

SEC. 13632. REPEAL OF TARGETED EXEMPTION FROM TAX ON UNRELATED TRADE OR BUSINESS INCOME FROM GAMBLING IN CERTAIN STATES.

(a) IN GENERAL.—Section 311 of the Tax Reform Act of 1984 is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to games of chance conducted after December 31, 1995, in taxable years ending after such date.

SEC. 13633. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.

(a) REPEAL OF EXEMPTION FOR BINGO AND KENO.—Paragraph (5) of section 3402(q) is amended to read as follows:

''(5) EXEMPTION FOR SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine.''

(b) THRESHOLD AMOUNT.—Paragraph (3) of section 3402(q) is amended—

(1) by striking ''(B) and (C)'' in subparagraph (A) and inserting ''(B), (C), and (D)'', and

(2) by adding at the end the following new subparagraph:

''(D) BINGO AND KENO.—Proceeds of more than $5,000 from a wager placed in a bingo or keno game.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

PART VII—OTHER REFORMS

SEC. 13636. SUNSET OF LOW-INCOME HOUSING CREDIT.

(a) REPEAL OF REALLOCATION OF UNUSED CREDITS AMONG STATES.—Subparagraph (D) of section 42(h)(3) is amended by adding at the end the following new clause:

''(v) TERMINATION.—No amount may be allocated under this paragraph for any calendar year after 1995.''

(b) TERMINATION.—Section 42 is amended by adding at the end the following new subsection:

''(o) TERMINATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2)—

''(A) clause (i) of subsection (h)(3)(C) shall not apply to any amount allocated after December 31, 1997, and

''(B) subsection (h)(4) shall not apply to any building placed in service after such date.

''(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS.—For purposes of paragraph (1)(B), a building shall be treated as placed in service before January 1, 1998, if—

''(A) the bonds with respect to such building are issued before such date,

''(B) the taxpayer's basis in the project (of which the building is a part) as of December 31, 1997, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of December 31, 1999, and

''(C) such building is placed in service before January 1, 2000.''

SEC. 13637. REPEAL OF CREDIT FOR CONTRIBUTIONS TO COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—Section 13311 of the Revenue Reconciliation Act of 1993 (relating to credit for contributions to certain community development corporations) is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act (other than contributions made pursuant to a legally enforceable agreement which is effect on the date of the enactment of this Act).

SEC. 13638. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Section 6427 is amended by striking subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 34(a) is amended to read as follows:

''(3) under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(k)).''

(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—

(A) by striking ''(g),'', and

(B) by striking ''(or a qualified diesel powered highway vehicle purchased)'' each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles purchased after December 31, 1995.

SEC. 13639. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

''(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

''(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

''(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 13640. REPEAL OF SPECIAL RULE FOR RENTAL USE OF VACATION HOMES, ETC., FOR LESS THAN 15 DAYS.

(a) IN GENERAL.—Section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by striking subsection (g).

(b) NO BASIS REDUCTION UNLESS DEPRECIATION CLAIMED.—Section 1016 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULE WHERE RENTAL USE OF VACATION HOME, ETC., FOR LESS THAN 15 DAYS.—If a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, the reduction under subsection (a)(2) by reason of such rental use in any taxable year beginning after December 31, 1995, shall not exceed the depreciation deduction allowed for such rental use.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13641. ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.

(a) IN GENERAL.—Subsection (d) of section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

''(3) ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.—

''(A) IN GENERAL.—Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer's election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

''(B) ASSETS AND LIABILITIES OF ISSUER TRANSFERRED TO TAXABLE SUBSIDIARY.—The requirements of this subparagraph are met by an issuer if—

''(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;

''(ii) such transferee corporation assumes or otherwise provides for the payment of all

of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;

''(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer's agreements with the Secretary of Education in respect of student loans;

''(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee, hold all of the senior stock in such transferee corporation; and

''(v) such transferee corporation is not exempt from tax under this chapter.

''(C) ISSUER TO OPERATE AS INDEPENDENT ORGANIZATION DESCRIBED IN SECTION 501(c)(3).—The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—

''(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);

''(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and

''(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.

''(D) SENIOR STOCK.—For purposes of this paragraph, the term 'senior stock' means stock—

''(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;

''(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—

''(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or

''(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;

''(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and

''(iv) in respect of which, during the time such stock is outstanding, there is not outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.

''(E) INDEPENDENT MEMBER.—The term 'independent member' means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—

''(i) for services performed in connection with such transferee corporation, or

''(ii) for services as a member of the board of directors or as an officer of such transferee corporation.

For purposes of clause (ii), the term 'officer' includes any individual having powers or responsibilities similar to those of officers.

''(F) COORDINATION WITH CERTAIN PRIVATE FOUNDATION TAXES.—For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—

''(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or

''(ii) the last day of the taxable year of the issuer during which occurs the date which is 10 years after the date on which the election under this paragraph is made.

''(G) ELECTION.—An election under this paragraph may be revoked only with the consent of the Secretary.''

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

SEC. 13642. CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS TREATED AS UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

''(18) TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—

''(i) such organization,

''(ii) an affiliate of such organization which is exempt from tax under section 501(a), or

''(iii) a director, officer, or employee of such organization or affiliate but only if the insurance covers solely risks associated with the performance of services for the benefit of such organization or affiliate.

''(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts included in gross income in any taxable year beginning after December 31, 1995.

PART VIII—EXCISE TAX ON AMOUNTS OF PRIVATE EXCESS BENEFITS

SEC. 13646. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

''Subchapter D—Failure By Certain Charitable Organizations To Meet Certain Qualification Requirements

''SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.

''(a) INITIAL TAXES.—

''(1) ON THE DISQUALIFIED PERSON.—There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

''(2) ON THE MANAGEMENT.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

''(b) ADDITIONAL TAX ON THE DISQUALIFIED PERSON.—In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

''(c) EXCESS BENEFIT TRANSACTION; EXCESS BENEFIT.—For purposes of this section—

''(1) EXCESS BENEFIT TRANSACTION.—

''(A) IN GENERAL.—The term 'excess benefit transaction' means any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

''(B) EXCESS BENEFIT.—The term 'excess benefit' means the excess referred to in subparagraph (A).

''(2) AUTHORITY TO INCLUDE CERTAIN OTHER PRIVATE INUREMENT.—To the extent provided in regulations prescribed by the Secretary, the term 'excess benefit transaction' includes any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the revenues of 1 or more activities of the organization but only if such transaction results in inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be. In the case of any such transaction, the excess benefit shall be the amount of the inurement not so permitted.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable for any tax imposed by subsection (a) or subsection (b), all such persons shall be jointly and severally liable for such tax.

''(2) LIMIT FOR MANAGEMENT.—With respect to any 1 excess benefit transaction, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

''(e) APPLICABLE TAX-EXEMPT ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt organization'

means any organization which (without regard to any excess benefit) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a). Such term shall not include a private foundation (as defined in section 509(a)).

''(f) OTHER DEFINITIONS.—For purposes of this section—

''(1) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to any transaction—

''(A) any person who was, at any time during the 5-year period ending on the date of such transaction—

''(i) an organization manager, or

''(ii) an individual (other than an organization manager) in a position to exercise substantial influence over the affairs of the organization,

''(B) a member of the family of an individual described in subparagraph (A), and

''(C) a 35-percent controlled entity.

''(2) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

''(3) 35-PERCENT CONTROLLED ENTITY.—

''(A) IN GENERAL.—The term '35-percent controlled entity' means—

''(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

''(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

''(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

''(B) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this paragraph.

''(4) FAMILY MEMBERS.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or half blood) of the individual and their spouses.

''(5) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earliest of—

''(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

''(B) the date on which the tax imposed by subsection (a)(1) is assessed.

''(6) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any excess benefit transaction, undoing the excess benefit to the extent possible, and where fully undoing the excess benefit is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

''(g) TREATMENT OF PREVIOUSLY EXEMPT ORGANIZATIONS.—

''(1) IN GENERAL.—For purposes of this section, the status of any organization as an applicable tax-exempt organization shall be terminated only if—

''(A)(i) such organization notifies the Secretary (at such time and in such manner as the Secretary may by regulations prescribe) of its intent to accomplish such termination, or

''(ii) there is a final determination by the Secretary that such status has terminated, and

''(B)(i) such organization pays the tax imposed by paragraph (2) (or any portion not abated pursuant to paragraph (3)), or

''(ii) the entire amount of such tax is abated pursuant to paragraph (3).

''(2) IMPOSITION OF TAX.—There is hereby imposed on each organization referred to in paragraph (1) a tax equal to the lesser of—

''(A) the amount which the organization substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from its exemption from tax under section 501(a), or

''(B) the value of the net assets of such organization.

''(3) ABATEMENT OF TAX.—The Secretary may abate the unpaid portion of the assessment of any tax imposed by paragraph (2), or any liability in respect thereof, if the applicable tax-exempt organization distributes all of its net assets to 1 or more organizations each of which has been in existence, and described in section 501(c)(3), for a continuous period of at least 60 calendar months. If the distributing organization is described in section 501(c)(4), the preceding sentence shall be applied by treating the reference to section 501(c)(3) as including a reference to section 501(c)(4).

''(4) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (d), (e), and (f) of section 507 shall apply for purposes of this subsection.''

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Paragraph (4) of section 501(c) is amended by inserting ''(A)'' after ''(4)'' and by adding at the end the following:

''(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.''

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4955 is amended—

(A) by striking ''SECTION 4945'' in the heading and inserting ''SECTIONS 4945 and 4958'', and

(B) by inserting before the period ''or an excess benefit for purposes of section 4958''.

(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting ''4958,'' after ''4955,''.

(3) Subsection (e) of section 6213 is amended by inserting ''4958 (relating to private excess benefit),'' before ''4971''.

(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting ''4958,'' after ''4955,''.

(5) Subsection (b) of section 7454 is amended by inserting ''or whether an organization manager (as defined in section 4958(f)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4958(c)),'' after ''section 4912(b),''.

(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the 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.''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (b)) shall apply to excess benefit transactions occurring on or after September 14, 1995.

(2) BINDING CONTRACTS FOR PERSONAL SERVICES.—The amendments referred to in paragraph (1) shall not apply to any transaction pursuant to any written contract for the performance of personal services which was binding on September 13, 1995, and at all times thereafter before such transaction occurred.

(3) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to inurement occurring on or after September 14, 1995.

(B) BINDING CONTRACTS.—The amendment made by subsection (b) shall not apply to any inurement occurring before January 1, 1997, pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such inurement occurred.

SEC. 13647. REPORTING OF CERTAIN EXCISE TAXES AND OTHER INFORMATION.

(a) REPORTING BY ORGANIZATIONS DESCRIBED IN SECTION 501(c)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) is amended by striking ''and'' at the end of paragraph (9), by redesignating paragraph (10) as paragraph (14), and by inserting after paragraph (9) the following new paragraphs:

''(10) the respective amounts (if any) of the taxes paid by the organization during the taxable year under the following provisions:

''(A) section 4911 (relating to tax on excess expenditures to influence legislation),

''(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations), and

''(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations),

''(11) the respective amounts (if any) of the taxes paid by the organization or any disqualified person during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations),

''(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

''(13) the name of each disqualified person who receives an economic benefit from an applicable tax-exempt organization (as defined in section 4958(e)) and such other information as the Secretary may prescribe with respect to such benefit, and''.

(b) ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a) the information referred to in paragraphs (10), (11), (12) and (13) of subsection (b) with respect to such organization.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 13648. EXEMPT ORGANIZATIONS REQUIRED TO PROVIDE COPY OF RETURN.

(a) GENERAL RULE.—

(1) Subparagraph (A) of section 6104(e)(1) (relating to public inspection of annual returns) is amended to read as follows:

''(A) IN GENERAL.—During the 3-year period beginning on the filing date—

''(i) a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

''(ii) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return shall be provided to such individual without

charge other than a reasonable fee for any reproduction and mailing costs.

If the request under clause (ii) is made in person, such copy shall be provided immediately and, if made other than in person, shall be provided within 30 days.''

(2) Clause (ii) of section 6104(e)(2)(A) is amended by inserting before the period at the end thereof the following: ''(and, upon request of an individual made at such principal office or such a regional or district office, a copy of the material required to be available for inspection under this subparagraph shall be provided (in accordance with the last sentence of paragraph (1)(A)) to such individual without charge other than a reasonable fee for any reproduction and mailing costs)''.

(3) Subsection (e) of section 6104 is amended by adding at the end the following new paragraph:

''(3) LIMITATION.—Paragraph (1)(A)(ii) (and the corresponding provision of paragraph (2)) shall not apply to any request if the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest.''

(b) ADVERTISEMENTS ETC., REQUIRED TO DISCLOSE AVAILABILITY OF ANNUAL RETURN.—

(1) Paragraph (1) of section 6104(e) is amended by adding at the end thereof the following new subparagraph:

''(E) ADVERTISEMENTS ETC., REQUIRED TO DISCLOSE AVAILABILITY OF ANNUAL RETURN.—In the case of an organization required by subparagraph (A) to provide a copy of its annual return under section 6033 upon request to individuals, each written advertisement or solicitation by (or on behalf of) such organization shall contain an express statement (in a conspicuous and easily recognizable format) that such return shall be provided to individuals upon request.''

(2) Section 6716, as added by section 13649 of this title, is amended—

(A) by striking ''section 6116'' each place it appears and inserting ''section 6116 or section 6104(e)(1)(E)'',

(B) by striking ''$1,000'' in subsection (a) and inserting ''$1,000 ($100 in the case of a failure to meet the requirements of 6104(e)(1)(E))'', and

(C) by inserting before the period at the end of the section heading ''**; FAILURE OF CERTAIN EXEMPT ORGANIZATIONS TO DISCLOSE AVAILABILITY OF ANNUAL RETURN**''.

(3) Subparagraph (C) of section 6652(c)(1) is amended by striking ''(e)(1)'' and inserting ''(e)(1) (other than subparagraph (E))'', by striking ''$10'' and inserting ''$20'', and by striking ''$5,000'' and inserting ''$10,000''.

(4) Subparagraph (D) of section 6652(c)(1) is amended by striking ''$10'' and inserting ''$20''.

(5) The item relating to section 6716 in the table of sections for part I of subchapter B of chapter 68 is amended by inserting before the period ''; failure of certain exempt organizations to disclose availability of annual return''.

(c) INCREASE IN PENALTY FOR WILLFUL FAILURE TO ALLOW PUBLIC INSPECTION OF CERTAIN RETURNS, ETC.—Section 6685 is amended by striking ''$1,000'' and inserting ''$5,000''.

(d) COPIES OF RETURNS OF EXEMPT ORGANIZATIONS AVAILABLE FROM SECRETARY IN CERTAIN CASES.—Subsection (b) of section 6104 is amended to read as follows:

''(b) INSPECTION OF ANNUAL INFORMATION RETURNS.—

''(1) IN GENERAL.—The information required to be furnished by sections 6033, 6034, and 6058, together with the names and addresses of such organizations and trusts, shall be made available to the public at such times and in such places as the Secretary may prescribe. Nothing in this subsection shall authorize the Secretary to disclose the name or address of any contributor to any organization or trust (other than a private foundation, as defined in section 509(a)) which is required to furnish such information.

''(2) COPIES PROVIDED OF RETURNS FILED UNDER SECTION 6033 AND APPLICATIONS FILED UNDER SECTION 508 IN CERTAIN CASES.—The Secretary shall provide copies of returns filed under section 6033 and applications for exemption filed under section 508 by any organization to which subsection (d) or (e)(1) applies to any person who agrees (subject to such conditions as the Secretary shall prescribe)—

''(A) to accept broad categories of such returns and applications, and

''(B) to provide electronic access to the provided returns and applications on an electronic network available to the general public.

Such copies shall be provided without charge if such person agrees to provide such access without charge. Otherwise, the Secretary may impose a reasonable fee for any reproduction and mailing costs.

''(3) RETURNS AND APPLICATIONS FILED BEFORE 1996.—Paragraph (2) shall apply to returns and applications filed before January 1, 1996, only to the extent provided by the Secretary.''

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996 (or, if later, the 90th day after the date of the enactment of this Act).

SEC. 13649. CERTAIN ORGANIZATIONS REQUIRED TO DISCLOSE NONEXEMPT STATUS.

(a) GENERAL RULE.—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by redesignating section 6116 as section 6117 and by inserting after section 6115 the following new section:

''SEC. 6116. CERTAIN ORGANIZATIONS REQUIRED TO DISCLOSE NONEXEMPT STATUS.

''(a) IN GENERAL.—If—

''(1) in an advertisement or solicitation by (or on behalf of) an organization, such organization is referred to as being nonprofit, and

''(2) such organization is not exempt from tax under subtitle A,

such advertisement or solicitation shall contain an express statement (in a conspicuous and easily recognizable format) that such organization is not exempt from Federal income taxes.

''(b) CROSS REFERENCE.—

''For penalties for violation of subsection (a), see section 6716.''

(b) PENALTY.—Part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

''SEC. 6716. FAILURE TO DISCLOSE NONEXEMPT STATUS.

''(a) IMPOSITION OF PENALTY.—If there is a failure to meet the requirements of section 6116 with respect to any advertisement or solicitation by (or on behalf of) an organization, such organization shall pay a penalty of $1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed $10,000.

''(b) REASONABLE CAUSE EXEMPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

''(c) $10,000 LIMITATION NOT TO APPLY WHERE INTENTIONAL DISREGARD.—If any failure to which subsection (a) applies is due to intentional disregard of the requirements of section 6116—

''(1) the penalty under subsection (a) for the day on which failure occurred shall be the greater of—

''(A) $1,000, or

''(B) 50 percent of the aggregate cost of the advertisements and solicitations which occurred on such day and with respect to which there was such failure,

''(2) the $10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

''(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

''(d) DAY ON WHICH FAILURE OCCURS.—For purposes of this section, rules similar to the rules of section 6710(d) shall apply in determining the day on which any failure occurs.''

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking the item relating to section 6116 and inserting the following:

''Sec. 6116. Certain organizations required to disclose nonexempt status.

''Sec. 6117. Cross reference.''

(2) The table of sections of part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

''Sec. 6716. Failure to disclose nonexempt status.''

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996 (or, if later, the 90th day after the date of the enactment of this Act).

SEC. 13650. INCREASE IN PENALTIES ON EXEMPT ORGANIZATIONS FOR FAILURE TO FILE COMPLETE AND TIMELY ANNUAL RETURNS.

(a) IN GENERAL.—Subparagraph (A) of section 6652(c)(1) (relating to annual returns under section 6033) is amended by striking ''$10'' and inserting ''$20'' and by striking ''$5,000'' and inserting ''$10,000''.

(b) LARGER PENALTY ON ORGANIZATIONS HAVING GROSS RECEIPTS IN EXCESS OF $1,000,000.—Subparagraph (A) of section 6652(c)(1) is amended by adding at the end the following new sentence: ''In the case of an organization having gross receipts exceeding $1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting '$100' for '$20' and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed $50,000.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years ending on or after December 31, 1995.

SEC. 13651. STUDIES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of—

(1) whether the statutory prohibition on private inurement, and the provisions of section 4958 of the Internal Revenue Code of 1986 (as added by this part), should apply to other tax-exempt organizations,

(2) whether State officials responsible for overseeing charitable organizations should be provided with Federal tax information in addition to the information available under section 6103 of such Code for purposes of such oversight, and

(3) whether the return required to be filed by section 6033 of such Code should be modified to assure the return's utility to such Secretary and to the public and to reduce any unnecessary reporting burdens.

(b) REPORT.—Not later than January 1, 1997, the report of such study shall be submitted to the Committee on Ways and Means

of the House of Representatives and the Committee on Finance of the Senate.

Subtitle G—Reform of the Earned Income Tax Credit

SEC. 13701. REPEAL OF EARNED INCOME CREDIT FOR INDIVIDUALS WITHOUT QUALIFYING CHILDREN; MODIFICATIONS TO CREDIT PHASEOUT.

(a) REPEAL OF CREDIT FOR INDIVIDUALS WITHOUT CHILDREN.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:

''(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.''

(b) MODIFICATIONS TO PHASEOUT.—

(1) Subsection (b) of section 32 is amended to read as follows:

''(b) PERCENTAGES.—

''(1) IN GENERAL.—The credit percentage and the phaseout percentage shall be determined as follows:

''In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	18
2 or more qualifying children	40	23

''(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

''In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,340	$11,630
2 or more qualifying children	$8,910	$11,630.''

(2) Subsection (j) of section 32 is amended—

(A) by striking ''subsection (b)(2)(A)'' and inserting ''subsection (b)(2)'',

(B) by striking ''1994'' and inserting ''1996'', and

(C) by striking ''1993'' and inserting ''1995''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13702. MODIFICATION OF ADJUSTED GROSS INCOME USED FOR PHASEOUT.

(a) IN GENERAL.—Subsections (a)(2)(B), (c)(1)(C), and (f)(2)(B) of section 32 are each amended by striking ''adjusted gross income'' each place it appears and inserting ''modified adjusted gross income''.

(b) MODIFIED ADJUSTED GROSS INCOME.—Subsection (c) of section 32 is amended by adding at the end the following new paragraph:

''(5) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term 'modified adjusted gross income' means adjusted gross income increased by—

''(A) any amount received as a pension or annuity, and any distribution or payment received from an individual retirement plan, by the taxpayer during the taxable year to the extent not otherwise included in gross income, and

''(B) the social security benefits (as defined in section 86(d)) received by the taxpayer during the taxable year to the extent not included in gross income.

Any amount which is not includible in gross income by reason of paragraph (3), (4), or (5) of section 408(d) or section 402(c), 403(a)(4), 403(b)(8), or 457(e)(10) shall be treated as not described in subparagraph (A).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13703. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

''(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

''(i) such individual's taxpayer identification number, and

''(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.''

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

''(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).''

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking ''and' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

''(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return, and

''(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle H—Increase in Public Debt Limit

SEC. 13801. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained therein and inserting ''$5,500,000,000,000''.

Subtitle I—Coal Industry Retiree Health Equity

SEC. 13901. REPEAL OF REACHBACK PROVISIONS OF COAL INDUSTRY HEALTH BENEFIT SYSTEM.

(a) AMENDMENTS RELATED TO DEFINITIONS.—

(1) AGREEMENTS.—

(A) IN GENERAL.—Paragraph (1) of section 9701(b) (relating to agreements) is amended to read as follows:

''(1) COAL WAGE AGREEMENTS.—

''(A) 1988 AGREEMENT.—The term '1988 agreement' means the collective bargaining agreement between the settlors which became effective on February 1, 1988.

''(B) COAL WAGE AGREEMENT.—The term 'coal wage agreement' means any predecessor to the 1988 agreement.''

(B) CONFORMING AMENDMENT.—Section 9701(b) is amended by striking paragraph (3).

(2) OPERATORS.—

(A) SIGNATORY OPERATOR.—Paragraph (1) of section 9701(c) (relating to operators) is amended to read as follows:

''(1) SIGNATORY OPERATOR.—The term 'signatory operator' means a 1988 agreement operator.''

(B) 1988 AGREEMENT OPERATOR.—Paragraph (3) of section 9701(c) is amended to read as follows:

''(3) 1988 AGREEMENT OPERATOR.—The term '1988 agreement operator' means—

''(A) an operator which was a signatory to the 1988 agreement, or

''(B) a person in business which, during the term of the 1988 agreement, was a signatory to an agreement (other than the National Coal Mine Construction Agreement and the Coal Haulers' Agreement) containing pension and health care contribution and benefit provisions which are the same as those contained in the 1988 agreement.

Such term shall not include any operator who was assessed, and did pay the full amount of, contractual withdrawal liability to the 1950 UMWA Benefit Plan, the 1974 UMWA Benefit Plan, or the Combined Fund.''

(C) LAST SIGNATORY OPERATOR.—Section 9701(c)(4) is amended by inserting ''bituminous'' before ''coal'' each place it appears.

(b) COMBINED BENEFIT FUND.—Section 9702(b)(1) is amended to read as follows:

''(b) BOARD OF TRUSTEES.—

''(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:

''(A) two individuals who represent employers in the coal mining industry shall be designated by the BCOA;

''(B) two individuals designated by the United Mine Workers of America; and

''(C) three persons selected by the persons appointed under subparagraphs (A) and (B).''

(c) ASSIGNMENT OF ELIGIBLE BENEFICIARIES.—Subsection (a) of section 9706 is amended by adding at the end the following new flush sentence:

''For purposes of assessing premiums on or after October 1, 1995, under this chapter, the Commissioner of Social Security shall, effective October 1, 1995, revoke all assignments previously made (and shall make no further assignments and shall terminate all unpaid liabilities for any pending assignments) to all persons other than signatory operators and shall deem each affected coal industry retiree who is an eligible beneficiary to be an unassigned beneficiary under section 9706. The preceding sentence shall not be construed to prevent any transfer, or any treatment of a successor as an assigned operator, under subsection (b)(2).''

(d) 1992 UMWA BENEFIT PLAN.—Section 9712(d) is amended—

(1) by striking paragraph (3) and by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively, and

(2) by striking ''or last signatory operator described in paragraph (3),'' in paragraph (3) (as redesignated under paragraph (1)).

(e) INFORMATION REQUIREMENTS.—

(1) IN GENERAL.—Subsection (h) of section 9704 is amended by adding at the end the following new paragraph:

''(2) INFORMATION TO CONTRIBUTORS.—

''(A) IN GENERAL.—The trustees of the Combined Fund shall, within 30 days of a written request, make available to any person required to make contributions to the Combined Fund, or their agent—

''(i) all documents which reflect its financial and operational status, including documents under which it is operated, and

''(ii) all documents prepared at the request of the trustees or staff of the Combined Fund which form the basis for any of its actions or reports, including the eligibility of participants in predecessor plans.

''(B) FEES.—The trustees may charge reasonable fees (not in excess of actual expenses) for providing documents under this paragraph.''

(2) CONFORMING AMENDMENT.—Subsection (h) of section 9704 is amended by striking ''(h) INFORMATION.—The'' and inserting the following:

''(h) INFORMATION.—

''(1) INFORMATION TO SECRETARY.—The''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after September 30, 1995.

TITLE XIV—COMMITTEE ON WAYS AND MEANS—TAX SIMPLIFICATION

SEC. 14001. SHORT TITLE; AMENDMENT TO 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Tax Simplification Act of 1995''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Subtitle A—Provisions Relating to Individuals

PART I—PROVISIONS RELATING TO ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE

SEC. 14101. MULTIPLE SALES WITHIN ROLLOVER PERIOD.

(a) GENERAL RULE.—

(1) Section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking subsection (d).

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

''(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence.''

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking ''(other than the 2 years referred to in subsection (c)(4))''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 14102. SPECIAL RULES IN CASE OF DIVORCE.

(a) IN GENERAL.—Subsection (c) of section 1034 is amended by adding at the end the following new paragraph:

''(5) If—

''(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

''(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 14103. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR CERTAIN SPOUSES.

(a) IN GENERAL.—Paragraph (2) of section 121(b) (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end the following new sentence: ''For purposes of applying the preceding sentence to individuals who are married to each other, an election by one individual with respect to a sale or exchange occurring before the marriage shall be disregarded for purposes of permitting an election with respect to property owned and used by the other individual as his principal residence throughout the 3-year period ending on the date of the marriage.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining whether an election may be made under section 121 of the Internal Revenue Code of 1986 with respect to a sale or exchange occurring after September 13, 1995.

PART II—OTHER PROVISIONS

SEC. 14111. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

''SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

''(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

''(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, or charge card so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

''(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, or charge card transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

''(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

''(2) the amount of such money order upon all the assets of the issuer thereof, or

''(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

''(d) PAYMENT BY OTHER MEANS.—

''(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

''(A) specify which methods of payment by commercially acceptable means will be acceptable,

''(B) specify when payment by such means will be considered received,

''(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

''(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

''(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the Government. The Secretary may not pay any fee or provide any other consideration under such contracts.

''(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

''(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card,

''(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth-in-Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law,

''(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card,

''(D) the term 'creditor' under section 103(f) of the Truth-in-Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps), and

''(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction of an amount owed to a person as the result of the correction of an error under section 161 of the Truth-in-Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

''(e) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

''(2) EXCEPTIONS.—

''(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

''(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

''(i) statistical risk and profitability assessment;

''(ii) transferring receivables, accounts, or interest therein;

''(iii) auditing the account information;

''(iv) complying with Federal, State, or local law; and

''(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

''(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

''(4) CROSS REFERENCE.—

''For provision providing for civil damages for violation of paragraph (1), see section 7431.''

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

''Sec. 6311. Payment of tax by commercially acceptable means.''

(c) AMENDMENTS TO SECTIONS 6103 AND 7431 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

(1) Subsection (k) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

''(8) DISCLOSURE OF INFORMATION TO ADMINISTER SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.''

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end the following new subsection:

''(g) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).''

(3) Section 6103(p)(3)(A) is amended by striking ''or (6)'' and inserting ''(6), or (8)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day 9 months after the date of the enactment of this Act.

SEC. 14112. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

''(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

''(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

''(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

''(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

''(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

''(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200 ($400 in the case of a joint return), and

''(C) such individual elects to have this subsection apply for the taxable year.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

''(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

''(ii) such item of income is shown on a payee statement furnished to the individual.

''(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

''(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

''(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 14113. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

''(e) APPLICATION TO INDIVIDUALS.—

''(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

''(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

''(A) nonfunctional currency is disposed of by an individual in any transaction, and

''(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

''(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14114. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

''(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

''(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

''(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

''(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991.''

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14115. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: ''to the extent remuneration for such service is excludable from gross income under such section''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1995.

SEC. 14116. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 162 is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate, or provide support services for the investigation of, a Federal crime.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 14201. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new paragraph:

''(8) TERMINATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection shall not apply to any taxable year beginning after December 31, 1995.

''(B) RETENTION OF CERTAIN TRANSITION RULES.—Subparagraph (A) shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986.''

SEC. 14202. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 101 is amended by striking ''subsection (a) or (b)'' and inserting ''subsection (a)''.

(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 7701(a)(20) is amended by striking '', for the purposes of applying the provisions of section 101(b) with respect to employees' death benefits''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14203. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

''(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

''(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

''(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

''(i) subsection (b) shall not apply, and

''(ii) the investment in the contract shall be recovered as provided in this paragraph.

''(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

''(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

''(I) the investment in the contract (as of the annuity starting date), by

''(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

''(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

''(iii) NUMBER OF ANTICIPATED PAYMENTS.—

''If the age of the primary annuitant on the annuity starting date is:

	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65 ...	240
More than 65 but not more than 70 ...	170
More than 70	120

''(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

''(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

''(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

''(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

''(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

''(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

''(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

''(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in cases where the annuity starting date is after December 31, 1995.

SEC. 14204. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

''(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

''(I) the calendar year in which the employee attains age 70½, or

''(II) the calendar year in which the employee retires.

''(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

''(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

''(II) for purposes of section 408 (a)(6) or (b)(3).

''(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

''(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 14211. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking ''25'' each place it appears in the text and heading thereof and inserting ''100''.

(b) REPEAL OF PARTICIPATION REQUIREMENT.—

(1) IN GENERAL.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(2) CONFORMING AMENDMENTS.—Clause (ii) of section 408(k)(6)(C) and clause (ii) of section 408(k)(6)(F) are each amended by striking ''subparagraph (A)(iii)'' and inserting ''subparagraph (A)(ii)''.

(c) ALTERNATIVE TEST.—Clause (ii) of section 408(k)(6)(A), as redesignated by subsection (b)(1), is amended by adding at the end the following new flush sentence:

''The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B).''

(d) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—Clause (ii) of section 408(k)(6)(A), as redesignated by subsection (b)(1), is amended—

(1) by striking ''such year'' in subclause (I) and inserting ''the preceding year'', and

(2) by adding at the end the following new flush sentence:

''In the case of the first plan year for which an employer makes contributions to a simplified employee pension, rules similar to the rules of section 401(k)(3)(E) shall apply.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 14212. STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) IN GENERAL.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

''(B) ELIGIBILITY OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—Any—

''(i) State or local government or political subdivision thereof, or any agency or instrumentality thereof, and

''(ii) any organization exempt from tax under this subtitle,

may include a qualified cash or deferred arrangement as part of a plan maintained by it unless the entity maintains an eligible deferred compensation plan (as defined in section 457(b)). This subparagraph shall not apply to a rural cooperative plan.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1996, but shall not apply to any cash or deferred arrangement to which clause (i) or (ii) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

PART III—NONDISCRIMINATION PROVISIONS

SEC. 14221. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

''(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

''(A) was a 5-percent owner at any time during the year or the preceding year, or

''(B) had compensation for the preceding year from the employer in excess of $80,000. The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period in applying such section for purposes of this paragraph shall be the calendar quarter ending September 30, 1995.''

(b) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (2), (4), (5), (8), and (12) and by redesignating paragraphs (3), (6), (7), (9), (10), and (11) as paragraphs (2) through (7), respectively.

(B) Section 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking ''section 414(q)(7)'' and inserting ''section 414(q)(4)''.

(C) Sections 401(a)(17) and 404(l) are each amended by striking ''section 414(q)(6)'' and inserting ''section 414(q)(3)''.

(D) Section 416(i)(1)(A) is amended by striking ''section 414(q)(8)'' and inserting ''section 414(r)(9)''.

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

''(9) EXCLUDED EMPLOYEES.—For purposes of paragraph (2)(A), the following employees shall be excluded:

''(A) Employees who have not completed 6 months of service.

''(B) Employees who normally work less than 17½ hours per week.

''(C) Employees who normally work not more than 6 months during any year.

''(D) Employees who have not attained the age of 21.

''(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.''

(B) Subparagraph (A) of section 414(r)(2) is amended by striking ''subsection (q)(8)'' and inserting ''paragraph (9)''.

(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: ''Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect before the Tax Simplification Act of 1995''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 14222. REPEAL OF FAMILY AGGREGATION RULES.

(a) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(b) COMPENSATION LIMIT.—Subparagraph (A) of section 401(a)(17) is amended by striking the last sentence.

(c) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 14223. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

''(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

''(i) 50 employees of the employer, or

''(ii) the greater of—

''(I) 40 percent of all employees of the employer, or

''(II) 2 employees (or if there is only 1 employee, such employee).''

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking ''paragraph (7)'' and inserting ''paragraph (2)(A) or (7)''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 14224. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

''(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

''(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

''(i) meets the contribution requirements of subparagraph (B) or (C), and

''(ii) meets the notice requirements of subparagraph (D).

''(B) MATCHING CONTRIBUTIONS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

''(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

''(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

''(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

''(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

''(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

''(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

''(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

''(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

''(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

''(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

''(E) OTHER REQUIREMENTS.—

''(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

''(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

''(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.''

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

''(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

''(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

''(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

''(ii) meets the notice requirements of subsection (k)(11)(D), and

''(iii) meets the requirements of subparagraph (B).

''(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

''(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

''(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

''(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee.''

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking ''such year'' and inserting ''the plan year'', and

(B) by striking ''for such plan year'' and inserting ''the preceding plan year''.

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting ''for such plan year'' after ''highly compensated employees'', and

(B) by inserting ''for the preceding plan year'' after ''eligible employees'' each place it appears in clause (i) and clause (ii).

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

''(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

''(i) 3 percent, or

''(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.''

(2) Paragraph (3) of section 401(m) is amended by adding at the end the following: ''Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.''

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking ''on the basis of the respective portions of the excess contributions attributable to each of such employees'' and inserting ''on the basis of the amount of contributions by, or on behalf of, each of such employees''.

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking ''on the basis of the respective portions of such amounts attributable to each of such employees'' and inserting ''on the basis of the amount of contributions on behalf of, or by, each such employee''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

PART IV—MISCELLANEOUS SIMPLIFICATION

SEC. 14231. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

''(C) such services are performed under significant direction or control by the recipient.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 14232. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

''(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 14233. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking ''subparagraph (A), (B), or (C)'' and inserting ''subparagraph (A) or (B)''; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1996, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1998.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 14234. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after December 31, 1995.

SEC. 14235. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) DEFINITION OF COMPENSATION.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding immediately after paragraph (2) the following new paragraph:

''(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3)—

''(A) any elective deferral (as defined in section 402(g)(3)), and

''(B) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of an employee under section 125 or 457.''

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.''

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

''(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

''(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

''(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

''(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

''(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

''(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

''(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

''(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

''(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.''

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

''(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.''

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting immediately thereafter the following new subparagraph:

''(E) a qualified governmental excess benefit arrangement described in section 415(m).''

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

''(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

''(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

''(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.''

(e) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

''(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.''

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking ''This'' and inserting:

''(i) IN GENERAL.—This''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendment made by subsection (e) shall apply with respect to election revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 14236. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

''(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

''(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

''(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 14237. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) PENALTIES.—

(1) STATEMENTS.—Paragraph (1) of section 6724(d) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) any statement of the amount of payments to another person required to be made to the Secretary under—

''(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

''(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).''

(2) REPORTS.—Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting a comma, and by inserting after subparagraph (T) the following new subparagraphs:

''(U) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

''(V) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.''

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting ''aggregating $10 or more in any calendar year'' after ''distributions''.

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end the following new sentence: ''No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.''

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking ''the $10'' and inserting ''$100'', and

(2) by striking ''$5,000'' and inserting ''$50,000''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

''(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.''

(2) Subsection (e) of section 6652 is amended by adding at the end the following new sentence: ''This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(U).''

(3) Subsection (a) of section 6693 is amended by adding at the end the following new sentence: ''This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(T).''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1995.

SEC. 14238. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: ''If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 14239. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

''(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

''(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

''(i) such amount does not exceed $3,500, and

''(ii) such amount may be distributed only if—

''(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

''(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

''(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

''(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

''(ii) the participant may make only 1 such election.''

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

''(14) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d) (determined without regard to paragraph (4)), except that the base period in applying such section for purposes of this paragraph shall be the calendar quarter ending September 30, 1994.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14240. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Section 457 is amended by adding at the end the following new subsection:

''(g) GOVERNMENTAL PLANS MUST MAINTAIN SET ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

''(1) IN GENERAL.—A plan maintained by an eligible employer described in subsection (e)(1)(A) shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan described in subsection (b)(6) are held in trust for the exclusive benefit of participants and their beneficiaries.

''(2) TAXABILITY OF TRUSTS AND PARTICIPANTS.—For purposes of this title—

''(A) a trust described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and

''(B) notwithstanding any other provision of this title, amounts in the trust shall be includible in the gross income of participants and beneficiaries only to the extent, and at the time, provided in this section.

''(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f).''

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 457(b) is amended by inserting ''except as provided in subsection (g),'' before ''which provides that''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to assets and income described in section 457(b)(6) of the Internal Revenue Code of 1986 held by a plan on and after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of assets and income described in paragraph (1) held by a plan before the 90th day after the date of the enactment of this Act, a trust need not be established by reason of the amendments made by this section before such 90th day.

SEC. 14241. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows:

''(A) EXCEPTION.—A plan that was adopted and in effect before December 8, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—

''(i) the later of the date a plan amendment applying such amendment is adopted or made effective, or

''(ii) the first day of the first limitation year beginning after December 31, 1999.

Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 shall be made with respect to such benefits on the basis of such section as in effect on December 7, 1994, and the provisions of the plan as in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect).''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act.

(c) TRANSITIONAL RULE.—In the case of a plan that was adopted and in effect before December 8, 1994, if—

(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act applying the amendments made by section 767(b) of the Uruguay Round Agreements Act, and

(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).

SEC. 14242. MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED UNDER SECTION 403(b).

(a) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 14243. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 417(a)(3)(A) of the Internal Revenue Code of 1986 (relating to plan to provide written explanations), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.

SEC. 14244. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE.

(a) IN GENERAL.—Section 415(e) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 415(b)(5) is amended by striking ''and subsection (e)''.

(2) Paragraph (1) of section 415(f) is amended by striking ''subsections (b), (c), and (e)'' and inserting ''subsections (b) and (c)''.

(3) Subsection (g) of section 415 is amended by striking ''subsections (e) and (f)'' in the last sentence and inserting ''subsection (f)''.

(4) Clause (i) of section 415(k)(2)(A) is amended to read as follows:

''(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and''.

(5) Clause (ii) of section 415(k)(2)(A) is amended by striking ''subsections (c) and (e)'' and inserting ''subsection (c)''.

(6) Section 416 is amended by striking subsection (h).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to limitation years beginning after December 31, 1996.

SEC. 14245. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this title requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1997, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 14301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end the following new part:

''PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

''SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

''The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

''SEC. 772. SIMPLIFIED FLOW-THROUGH.

''(a) GENERAL RULE.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

''(1) taxable income or loss from passive loss limitation activities,

''(2) taxable income or loss from other activities,

''(3) net capital gain (or net capital loss)—

''(A) to the extent allocable to passive loss limitation activities, and

''(B) to the extent allocable to other activities,

''(4) tax-exempt interest,

''(5) applicable net AMT adjustment separately computed for—

''(A) passive loss limitation activities, and

''(B) other activities,

''(6) general credits,

''(7) low-income housing credit determined under section 42,

''(8) rehabilitation credit determined under section 47,

''(9) foreign income taxes,

''(10) the credit allowable under section 29, and

''(11) other items to the extent that the Secretary determines that the separate treatment of such items is appropriate.

''(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

''(c) TREATMENT AT PARTNER LEVEL.—

''(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

''(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

''(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

''(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

''(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

''(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

''(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

''(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

''(d) OPERATING RULES.—For purposes of this section—

''(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

''(A) any activity which involves the conduct of a trade or business, and

''(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

''(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

''(3) APPLICABLE NET AMT ADJUSTMENT.—

''(A) IN GENERAL.—The applicable net AMT adjustment is—

''(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

''(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

''(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

''(4) TREATMENT OF CERTAIN SEPARATELY STATED ITEMS.—

''(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be), and any item referred to in subsection (a)(11), shall be excluded.

''(B) ALLOCATION RULES.—The net capital gain shall be treated—

''(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

''(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

''(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

''(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

''(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

''(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

''(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in a large partnership other than as a limited partner—

''(1) paragraph (2) of subsection (c) shall not apply to such partner, and

''(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

''SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

''(a) GENERAL RULE.—

''(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

''(A) the items described in section 772(a) shall be separately stated, and

''(B) the modifications of subsection (b) shall apply.

''(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under

section 901, and any election under section 108, shall be made by each partner separately.

''(3) LIMITATIONS, ETC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

''(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

''(i) Section 68 (relating to overall limitation on itemized deductions).

''(ii) Sections 49 and 465 (relating to at risk limitations).

''(iii) Section 469 (relating to limitation on passive activity losses and credits).

''(iv) Any other provision specified in regulations.

''(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

''(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

''(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

''(A) The deduction for personal exemptions provided in section 151.

''(B) The net operating loss deduction provided in section 172.

''(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

''(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

''(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

''(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If a large partnership has income from the discharge of any indebtedness—

''(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

''(2) in determining the income tax of any partner of such partnership—

''(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

''(B) the provisions of section 108 shall be applied without regard to this part.

''SEC. 774. OTHER MODIFICATIONS.

''(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of a large partnership—

''(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

''(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

''(b) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

''(1) IN GENERAL.—In the case of a large partnership—

''(A) any credit recapture shall be taken into account by the partnership, and

''(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

''(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

''(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

''(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

''(c) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

''(d) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

''(1) The credit provided by section 34.

''(2) Any credit or refund under section 852(b)(3)(D).

''(e) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership—

''(1) all interests in such partnership shall be treated as held by disqualified organizations,

''(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

''(3) subparagraph (D) of section 860E(e)(6) shall not apply.

''(f) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of a large partnership—

''(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

''(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

''SEC. 775. LARGE PARTNERSHIP DEFINED.

''(a) GENERAL RULE.—For purposes of this part—

''(1) IN GENERAL.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in any preceding partnership taxable year beginning after December 31, 1995, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

''(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

''(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

''(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

''(2) EXCLUSION.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

''(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

''(B) are retired partners who had performed such substantial services, or

''(C) are spouses of partners who are performing (or had previously performed) such substantial services.

''(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

''(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

''(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

''SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

''(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

''(1) IN GENERAL.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

''(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

''(b) SPECIAL RULES WHERE PART APPLIES.—

''(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

''(A) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

''(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 613A(d), and

''(C) paragraph (3) of section 705(a) shall not apply.

''(2) TREATMENT OF CERTAIN PARTNERS.—

''(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

''(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

''(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

''(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

''(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

''(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

''(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

''(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

''SEC. 777. REGULATIONS.

''The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part.''

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end the following new item:

''Part IV. Special rules for large partnerships.''

SEC. 14302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end the following new subchapter:

''Subchapter D—Treatment of Large Partnerships

''Part I. Treatment of partnership items and adjustments.

''Part II. Partnership level adjustments.

''Part III. Definitions and special rules.

''PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

''Sec. 6240. Application of subchapter.

''Sec. 6241. Partner's return must be consistent with partnership return.

''Sec. 6242. Procedures for taking partnership adjustments into account.

''SEC. 6240. APPLICATION OF SUBCHAPTER.

''(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

''(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

''(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

''(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

''(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

''(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

''SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

''(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

''(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

''(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

''(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

''(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

''(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

''(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

''(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

''(C) PERIOD OF LIMITATIONS.—The period for—

''(i) assessing any underpayment of tax, or

''(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

''(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

''(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

''For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

''SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

''(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

''(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

''(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

''(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

''(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

''(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C). A partnership may make an election under subparagraph (A) only if such partnership meets such requirements as the Secretary may prescribe to assure payment of such amount.

''(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

''(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

''(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

''(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

''(A) shall pay to the Secretary interest computed under paragraph (2), and

''(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

''(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

''(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

''(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

''(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have

been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

''(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

''(A) by netting all adjustments to items of income, gain, loss, or deduction and by treating any net increase in income as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, and

''(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

''(c) ADMINISTRATIVE PROVISIONS.—

''(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

''(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

''(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

''(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

''(3) PENALTIES.—

''(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

''(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

''(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

''(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

''(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

''(C) in any other case, when such adjustment is made.

''(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

''(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

''(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

''(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A—Adjustments by Secretary

"SEC. 6245. SECRETARIAL AUTHORITY.

''(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

''(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

''(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

''(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

''(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

''(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

''(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

''(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

''(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

''(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

''(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

''(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

''(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

''(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

''(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

''(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

''(1) the Tax Court,

''(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

''(3) the Claims Court.

''(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

''(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

''(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

''(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such

items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

''(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

''(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

''SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

''(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

''(1) the date on which the partnership return for such taxable year was filed, or

''(2) the last day for filing such return for such year (determined without regard to extensions).

''(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

''(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

''(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

''(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

''(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

''(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

''(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

''(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

''(2) for 1 year thereafter.

''Subpart B—Claims for Adjustments by Partnership

''SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

''(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

''(1) within 3 years after the later of—

''(A) the date on which the partnership return for such year is filed, or

''(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

''(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

''(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

''(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

''SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

''(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

''(1) the Tax Court,

''(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

''(3) the Claims Court.

''(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

''(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

''(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

''(c) COORDINATION WITH SUBPART A.—

''(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

''(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

''(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

''(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

''(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

''PART III—DEFINITIONS AND SPECIAL RULES

''SEC. 6255. DEFINITIONS AND SPECIAL RULES.

''(a) DEFINITIONS.—For purposes of this subchapter—

''(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

''(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

''(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

''(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

''(2) BINDING EFFECT.—A large partnership and all partners of such partnership shall be bound—

''(A) by actions taken under this subchapter by the partnership, and

''(B) by any decision in a proceeding brought under this subchapter.

''(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

''(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

''(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

''(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

''(1) for adjustment or assessment, 60 days thereafter, and

''(2) for collection, 6 months thereafter.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

''(1) to prevent abuse through manipulation of the provisions of this subchapter, and

''(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this

subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply.''

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end the following new item:

''SUBCHAPTER D. Treatment of large partnerships.''

SEC. 14303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end the following new sentence: ''In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year.''

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end the following new subsection:

''(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return.''

SEC. 14304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end the following new sentence:

''Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.''

SEC. 14305. TREATMENT OF PARTNERSHIP ITEMS OF INDIVIDUAL RETIREMENT ACCOUNTS.

Subsection (b) of section 6012 is amended by adding at the end the following new paragraph:

''(6) IRA SHARE OF PARTNERSHIP INCOME.—In the case of a trust which is exempt from taxation under section 408(e), for purposes of this section, the trust's distributive share of items of gross income and gain of any partnership to which subchapter C or D of chapter 63 applies shall be treated as equal to the trust's distributive share of the taxable income of such partnership.''

SEC. 14306. EFFECTIVE DATE.

The amendments made by this part shall apply to partnership taxable years beginning after December 31, 1995.

PART II—PROVISIONS RELATED TO CERTAIN PARTNERSHIP PROCEEDINGS

SEC. 14311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end the following new section:

''SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

''(a) GENERAL RULE.—If—

''(1) a taxpayer files an oversheltered return for a taxable year,

''(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

''(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

''(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

''(1) shows no taxable income for the taxable year, and

''(2) shows a net loss from partnership items.

''(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(d) FAILURE TO FILE PETITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

''(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

''(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

''(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

''(e) LIMITATIONS PERIOD.—

''(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

''(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

''(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

''(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

''(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

''(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

''(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

''(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

''(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

''(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

''(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

''(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

''(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

''(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

''(B) a notice of final partnership administrative adjustment has been issued and—

''(i) no petition has been filed under section 6226 and the time for doing so has expired, or

''(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

''(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

''(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

''(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

''(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c).''

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end the following new subsection:

''(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C.''

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end the following new item:

''Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 14312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

''(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

''(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 14313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows ''section 6226'' and inserting the following: ''(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and''.

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end the following new subsection:

''(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

''(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

''(2) for 60 days thereafter.''

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary.''

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 14314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

''(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 14315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1-YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking ''(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If'' and inserting the following:

''(f) SPECIAL RULES.—

''(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If'',

(2) by moving the text of such subsection 2 ems to the right, and

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

''(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

SEC. 14316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

''(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

''(2) for 6 months thereafter.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 14317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

''(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

''(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

''(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph.''

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end the following new paragraph:

''(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

''(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

''(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice of computational adjustment referred to in subsection (a)(3)(A).

''(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

''(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.''

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3)''.

(2) Subsection (a) of section 6503 is amended by striking ''section 6230(a)(2)(A)'' and inserting ''paragraph (2)(A) or (3) of section 6230(a)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 14318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking ''item'' and inserting ''item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking ''relates and'' and inserting ''relates,'', and

(B) by inserting before the period '', and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item''.

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

''(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or''.

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 14317, is amended by inserting ''(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)'' after ''partnership item''.

(B) Subparagraph (B) of such section is amended by inserting ''(and the applicability of any penalties, additions to tax, or additional amounts)'' after ''partnership items''.

(C) Subparagraph (A) of section 6230(c)(5), as added by section 14317, is amended by inserting before the period ''(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)''.

(D) Subparagraph (D) of section 6230(c)(5), as added by section 14317, is amended by inserting ''(and the applicability of any penalties, additions to tax, or additional amounts)'' after ''partnership items''.

(4) Paragraph (1) of section 6230(c) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following new subparagraph:

''(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item.''

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes ''shall be filed'' is amended to read as follows:

''(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)''.

(6) Paragraph (4) of section 6230(c) is amended by adding at the end the following: ''In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive. Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 14319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking ''the proper court.'' and inserting ''the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition.''

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end the following new sentence:

''Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion.''

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking ''(or an affected item)''.

(2) Paragraph (3) of section 6512(b) is amended by adding at the end the following new sentence:

''In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d).''

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking ''or'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', or'', and by inserting after subparagraph (E) the following new subparagraph:

''(F) in the case of a petition under section 6234(c)—

''(i) the legal residence of the petitioner if the petitioner is not a corporation, and

''(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation.''

(2) The last sentence of section 7482(b)(1) is amended by striking ''or 6228(a)'' and inserting '', 6228(a), or 6234(c)''.

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking ''or section 6228(a)'' and inserting '', 6228(a), or 6234(c)''.

(2) Subsection (o) of section 6501 is amended by adding at the end the following new paragraph:

''(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 14320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) TREATMENT OF PREMATURE PETITIONS.—If—

''(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

''(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 14321. BONDS IN CASE OF APPEALS FROM CERTAIN PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting ''penalties,'' after ''any interest,'', and

(2) by striking ''aggregate of such deficiencies'' and inserting ''aggregate liability of the parties to the action''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 14322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM CERTAIN SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end the following new sentence: ''In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same

manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adjustments with respect to partnership taxable years beginning after the date of the enactment of this Act.

SEC. 14323. SPECIAL RULES FOR ADMINISTRATIVE ADJUSTMENT REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.

(a) GENERAL RULE.—Section 6227 (relating to administrative adjustment requests) is amended by adding at the end the following new subsection:

''(e) REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.—In the case of that portion of any request for an administrative adjustment which relates to the deductibility by the partnership under section 166 of a debt as a debt which became worthless, or under section 165(g) of a loss from worthlessness of a security, the period prescribed in subsection (a)(1) shall be 7 years from the last day for filing the partnership return for the year with respect to which such request is made (determined without regard to extensions).''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

(2) TREATMENT OF REQUESTS FILED BEFORE DATE OF ENACTMENT.—In the case of that portion of any request (filed before the date of the enactment of this Act) for an administrative adjustment which relates to the deductibility of a debt as a debt which became worthless or the deductibility of a loss from the worthlessness of a security—

(A) paragraph (2) of section 6227(a) of the Internal Revenue Code of 1986 shall not apply,

(B) the period for filing a petition under section 6228 of the Internal Revenue Code of 1986 with respect to such request shall not expire before the date 6 months after the date of the enactment of this Act, and

(C) such a petition may be filed without regard to whether there was a notice of the beginning of an administrative proceeding or a final partnership administrative adjustment.

Subtitle D—Foreign Provisions

PART I—MODIFICATIONS TO TREATMENT OF PASSIVE FOREIGN INVESTMENT COMPANIES

SEC. 14401. UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS NOT SUBJECT TO PFIC INCLUSION.

Section 1296 is amended by adding at the end the following new subsection:

''(e) EXCEPTION FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—

''(1) IN GENERAL.—For purposes of this part, a corporation shall not be treated with respect to a shareholder as a passive foreign investment company during the qualified portion of such shareholder's holding period with respect to stock in such corporation.

''(2) QUALIFIED PORTION.—For purposes of this subsection, the term 'qualified portion' means the portion of the shareholder's holding period—

''(A) which is after December 31, 1995, and

''(B) during which the shareholder is a United States shareholder (as defined in section 951(b)) of the corporation and the corporation is a controlled foreign corporation.

''(3) NEW HOLDING PERIOD IF QUALIFIED PORTION ENDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if the qualified portion of a shareholder's holding period with respect to any stock ends after December 31, 1995, solely for purposes of this part, the shareholder's holding period with respect to such stock shall be treated as beginning as of the first day following such period.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if such stock was, with respect to such shareholder, stock in a passive foreign investment company at any time before the qualified portion of the shareholder's holding period with respect to such stock and no election under section 1298(b)(1) is made.''

SEC. 14402. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.

(a) IN GENERAL.—Part VI of subchapter P of chapter 1 is amended by redesignating subpart C as subpart D, by redesignating sections 1296 and 1297 as sections 1297 and 1298, respectively, and by inserting after subpart B the following new subpart:

''Subpart C—Election of Mark to Market For Marketable Stock

''Sec. 1296. Election of mark to market for marketable stock.

''SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK.

''(a) GENERAL RULE.—In the case of marketable stock in a passive foreign investment company which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person, at the election of such person—

''(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

''(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

''(A) the amount of such excess, or

''(B) the unreversed inclusions with respect to such stock.

''(b) BASIS ADJUSTMENTS.—

''(1) IN GENERAL.—The adjusted basis of stock in a passive foreign investment company—

''(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

''(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

''(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign investment company which the United States person is treated as owning under subsection (g)—

''(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

''(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

''(c) CHARACTER AND SOURCE RULES.—

''(1) ORDINARY TREATMENT.—

''(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect), shall be treated as ordinary income.

''(B) LOSS.—Any—

''(i) amount allowed as a deduction under subsection (a)(2), and

''(ii) loss on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect) to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

''(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign investment company.

''(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign investment company, the excess (if any) of—

''(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

''(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1291.

''(e) MARKETABLE STOCK.—For purposes of this section—

''(1) IN GENERAL.—The term 'marketable stock' means—

''(A) any stock which is regularly traded on—

''(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

''(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part,

''(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, and

''(C) to the extent provided in regulations, any option on stock described in subparagraph (A) or (B).

''(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign investment company which it owns directly or indirectly shall be treated as marketable stock for purposes of this section. Except as provided in regulations, similar treatment as marketable stock shall apply in the case of any other regulated investment company which publishes net asset valuations at least annually.

''(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN INVESTMENT COMPANIES.—In the case of a foreign corporation which is a controlled foreign corporation and which owns (or is treated under subsection (g) as owning) stock in a passive foreign investment company—

''(1) this section (other than subsection (c)(2)) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

''(2) for purposes of subpart F of part III of subchapter N—

''(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

''(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

''(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

''(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

''(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1)—

''(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

''(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign investment company.

''(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

''(i) STOCK ACQUIRED FROM A DECEDENT.—In the case of stock of a passive foreign investment company which is acquired by bequest, devise, or inheritance (or by the decedent's estate) and with respect to which an election under this section was in effect as of the date of the decedent's death, notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this subsection).

''(j) COORDINATION WITH SECTION 1291 FOR FIRST YEAR OF ELECTION.—

''(1) TAXPAYERS OTHER THAN REGULATED INVESTMENT COMPANIES.—

''(A) IN GENERAL.—If the taxpayer elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, and if the requirements of subparagraph (B) are not satisfied, section 1291 shall apply to—

''(i) any distributions with respect to, or disposition of, such stock in the first taxable year of the taxpayer for which such election is made, and

''(ii) any amount which, but for section 1291, would have been included in gross income under subsection (a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

''(B) REQUIREMENTS.—The requirements of this subparagraph are met if, with respect to each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.

''(2) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

''(A) IN GENERAL.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, then, with respect to such company's first taxable year for which such company elects the application of this section with respect to such stock—

''(i) section 1291 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

''(ii) such regulated investment company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1291(c)(3) if section 1291 were applied without regard to this subparagraph.

Clause (ii) shall not apply if for the preceding taxable year the company elected to mark to market the stock held by such company as of the last day of such preceding taxable year.

''(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

''(k) ELECTION.—This section shall apply to marketable stock in a passive foreign investment company which is held by a United States person only if such person elects to apply this section with respect to such stock. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless—

''(1) such stock ceases to be marketable stock, or

''(2) the Secretary consents to the revocation of such election.

''(l) TRANSITION RULE FOR INDIVIDUALS BECOMING SUBJECT TO UNITED STATES TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1995, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign investment company owned by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.''

(b) COORDINATION WITH INTEREST CHARGE, ETC.—

(1) Paragraph (1) of section 1291(d) is amended by adding at the end the following new flush sentence:

''Except as provided in section 1296(j), this section also shall not apply if an election under section 1296(k) is in effect for the taxpayer's taxable year.''

(2) The subsection heading for subsection (d) of section 1291 is amended by striking ''SUBPART B'' and inserting ''SUBPARTS B AND C''.

(3) Subparagraph (A) of section 1291(a)(3) is amended to read as follows:

''(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

''(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

''(ii) if section 1296 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1296 so applied.''

(c) CONFORMING AMENDMENTS.—

(1) Sections 532(b)(4) and 542(c)(10) are each amended by striking ''section 1296'' and inserting ''section 1297''.

(2) Subsection (f) of section 551 is amended by striking ''section 1297(b)(5)'' and inserting ''section 1298(b)(5)''

(3) Subsections (a)(1) and (d) of section 1293 are each amended by striking ''section 1297(a)'' and inserting ''section 1298(a)''.

(4) Paragraph (3) of section 1297(b), as redesignated by subsection (a), is hereby repealed.

(5) The table of sections for subpart D of part VI of subchapter P of chapter 1, as redesignated by subsection (a), is amended to read as follows:

''Sec. 1297. Passive foreign investment company.

''Sec. 1298. Special rules.''

(6) The table of subparts for part VI of subchapter P of chapter 1 is amended by striking the last item and inserting the following new items:

''Subpart C. Election of mark to market for marketable stock.

''Subpart D. General provisions.''

(d) CLARIFICATION OF GAIN RECOGNITION ELECTION.—The last sentence of section 1298(b)(1), as so redesignated, is amended by inserting ''(determined without regard to the preceding sentence)'' after ''investment company''.

SEC. 14403. MODIFICATIONS TO DEFINITION OF PASSIVE INCOME.

(a) EXCEPTION FOR SAME COUNTRY INCOME NOT TO APPLY.—Paragraph (1) of section 1297(b) (defining passive income), as redesignated by section 14402, is amended by inserting before the period ''without regard to paragraph (3) thereof''.

(b) PASSIVE INCOME NOT TO INCLUDE FSC INCOME.—Paragraph (2) of section 1297(b), as so redesignated, is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) any foreign trade income of a FSC.''

SEC. 14404. EFFECTIVE DATE.

The amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1995, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 14411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end the following new subsection:

''(e) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

''(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

''(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall

not apply to any amount treated as a dividend by reason of paragraph (1).

''(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.''

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking ''and except as provided in regulations, the taxpayer was a United States shareholder in such corporation''.

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 14412. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end the following new sentence: ''For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved.''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end the following new subsection:

''(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1995.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end the following new subsection:

''(g) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

''(1) a transaction to which section 304 applies,

''(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

''(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be.''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end the following new sentence: ''For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 14413. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

''(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

''(1) IN GENERAL.—If—

''(A) any foreign corporation is a member of a qualified group, and

''(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

''(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

''(A) the foreign corporation described in subsection (a), and

''(B) any other foreign corporation if—

''(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

''(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

''(iii) such other corporation is not below the sixth tier in such chain.

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation.''

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding ''or'' at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

''(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation.''

(B) Subparagraph (B) of section 902(c)(4) is amended by striking ''3rd foreign corporation'' and inserting ''sixth tier foreign corporation''.

(C) The heading for paragraph (3) of section 902(c) is amended by striking ''WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION'' and inserting ''WHERE FOREIGN CORPORATION FIRST QUALIFIES''.

(D) Paragraph (3) of section 902(c) is amended by striking ''ownership'' each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

''(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B)).''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

SEC. 14414. REPEAL OF INCLUSION OF CERTAIN EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) IN GENERAL.—

(1) REPEAL OF INCLUSION.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking subparagraph (C), by striking ''; and'' at the end of subparagraph (B) and inserting a period, and by adding ''and'' at the end of subparagraph (A).

(2) REPEAL OF INCLUSION AMOUNT.—Section 956A (relating to earnings invested in excess passive assets) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 904(d)(3) is amended by striking ''subparagraph (B) or (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(2) Paragraph (1) of section 956(b) is amended to read as follows:

''(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

''(A) the amount (not including a deficit) referred to in section 316(a)(1), and

''(B) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year.''

(3) Paragraph (3) of section 956(b) is amended to read as follows:

''(3) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

''(A) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the

meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,

''(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

''(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.''

(4) Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding ''or'' at the end of paragraph (1), by striking ''or'' at the end of paragraph (2), and by striking paragraph (3).

(5) Subsection (a) of section 959 is amended by striking ''paragraphs (2) and (3)'' in the last sentence and inserting ''paragraph (2)''.

(6) Subsection (c) of section 959 is amended by adding at the end the following flush sentence:

''References in this subsection to section 951(a)(1)(C) and subsection (a)(3) shall be treated as references to such provisions as in effect on the day before the date of the enactment of the Tax Simplification Act of 1995.''

(7) Paragraph (1) of section 959(f) is amended to read as follows:

''(1) IN GENERAL.—For purposes of this section, amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3).''

(8) Paragraph (2) of section 959(f) is amended by striking ''subparagraphs (B) and (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(9) Subsection (b) of section 989 is amended by striking ''subparagraph (B) or (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(10) Paragraph (9) of section 1298(b), as redesignated by section 14402, is amended by striking ''subparagraph (B) or (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(11) Subsections (d)(3)(B) and (e)(2)(B)(ii) of section 1298, as redesignated by section 14402, are each amended by striking ''or section 956A''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 956A.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1995, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

PART III—OTHER PROVISIONS

SEC. 14421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

''(a) FOREIGN INCOME TAXES.—

''(1) TRANSLATION OF ACCRUED TAXES.—

''(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

''(B) EXCEPTION FOR TAXES NOT PAID WITHIN FOLLOWING 2 YEARS.—

''(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

''(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

''(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—Subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under regulations prescribed by the Secretary.

''(D) CROSS REFERENCE.—

''For adjustments where tax is not paid within 2 years, see section 905(c).

''(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

''(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

''(B) any adjustment to the amount of such taxes shall be translated into dollars using—

''(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

''(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

''(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States.''

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

''(c) ADJUSTMENTS TO ACCRUED TAXES.—

''(1) IN GENERAL.—If—

''(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

''(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

''(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

''(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

''(3) ADJUSTMENTS.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

''(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

''(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period.''

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (as amended by subsection (a)) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

''(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment.''

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) setting forth procedures for determining the average exchange rate for any period.''

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking ''weighted'' each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b) shall apply to taxes paid or accrued in taxable years beginning after December 31, 1995.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to taxes which relate to taxable years beginning after December 31, 1995.

SEC. 14422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end the following new paragraph:

''(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

''(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

''(i) subparagraph (B) of paragraph (1) shall not apply, and

''(ii) the limitation of section 904 shall be based on the proportion which—

''(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

''(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

''(B) ELECTION.—

''(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1995, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

''(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

''CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

''Sec. 1491. Recognition of gain.

''Sec. 1492. Exceptions.

''SEC. 1491. RECOGNITION OF GAIN.

''In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle (other than for purposes of section 679), such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

''(1) the fair market value of the property so transferred, over

''(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor.''

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

''SEC. 1492. EXCEPTIONS.

''The provisions of section 1491 shall not apply—

''(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

''(2) To a transfer described in section 367, or

''(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491.''

(3) Section 1494 is hereby repealed.

(4) Paragraph (8) of section 6501(c) is amended by inserting ''or on any transfer by reason of section 1491'' after ''section 367''.

(5) Subsection (a) of section 6038B is amended by striking ''or'' at the end of paragraph (1), by adding ''or'' at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

''(3) makes any transfer described in section 1491,''.

(6) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(7) The table of chapters for subtitle A is amended by striking ''Tax on'' in the item relating to chapter 5 and inserting ''Treatment of''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1995.

SEC. 14424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

''(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995.

SEC. 14425. INCREASE IN FILING THRESHOLDS FOR RETURNS AS TO ORGANIZATION OF FOREIGN CORPORATIONS AND ACQUISITIONS OF STOCK IN SUCH CORPORATIONS.

(a) IN GENERAL.—Subsection (a) of section 6046 (relating to returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended to read as follows:

''(a) REQUIREMENT OF RETURN.—

''(1) IN GENERAL.—A return complying with the requirements of subsection (b) shall be made by—

''(A) each United States citizen or resident who becomes an officer or director of a foreign corporation if a United States person (as defined in section 7701(a)(30)) meets the stock ownership requirements of paragraph (2) with respect to such corporation,

''(B) each United States person—

''(i) who acquires stock which, when added to any stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation, or

''(ii) who acquires stock which, without regard to stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation,

''(C) each person (not described in subparagraph (B)) who is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and

''(D) each person who becomes a United States person while meeting the stock ownership requirements of paragraph (2) with respect to stock of a foreign corporation.

In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), subparagraph (A) shall be treated as including a reference to each United States person who is an officer or director of such corporation.

''(2) STOCK OWNERSHIP REQUIREMENTS.—A person meets the stock ownership requirements of this paragraph with respect to any corporation if such person owns 10 percent or more of—

''(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

''(B) the total value of the stock of such corporation.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1996.

SEC. 14426. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(7) FOREIGN PERSONS.—This section shall apply to any taxpayer who is not a United States person only for purposes of—

''(A) tax liability with respect to income which is effectively connected with the conduct of a trade or business in the United States, and

''(B) tax liability of a United States shareholder (as defined in section 951(b)) with respect to amounts includible in gross income under section 951(a).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995. Section 481 of the Internal Revenue Code of 1986 shall not apply to any change in a method of accounting by reason of such amendment.

SEC. 14427. CERTAIN PRIZES AND AWARDS.

(a) IN GENERAL.—Section 863 (relating to special rules for determining source) is amended by adding at the end the following new subsection:

''(f) CERTAIN PRIZES AND AWARDS ASSOCIATED WITH AMATEUR SPORTS COMPETITIONS.—

''(1) IN GENERAL.—A prize or award received by a nonresident alien by reason of participating in an amateur sports competition in the United States shall not be treated as derived from sources within the United States if such alien performs no services for such prize or award.

''(2) AMATEUR SPORTS COMPETITION.—For purposes of paragraph (1), the term 'amateur sports competition' means any competition in which the only prizes awarded by the sponsors of the competition are of nominal value.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to prizes and awards granted after the date of the enactment of this Act.

SEC. 14428. TREATMENT FOR ESTATE TAX PURPOSES OF SHORT-TERM OBLIGATIONS HELD BY NONRESIDENT ALIENS.

(a) IN GENERAL.—Subsection (b) of section 2105 is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by inserting after paragraph (3) the following new paragraph:

''(4) obligations which would be original issue discount obligations as defined in section 871(g)(1) but for subparagraph (B)(i) thereof, if any interest thereon (were such interest received by the decedent at the time of his death) would not be effectively connected with the conduct of a trade or business within the United States.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

Subtitle E—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO S CORPORATIONS

SEC. 14501. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking ''35 shareholders'' and inserting ''75 shareholders''.

SEC. 14502. ELECTING SMALL BUSINESS TRUSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

''(v) An electing small business trust.''

(b) CURRENT BENEFICIARIES TREATED AS SHAREHOLDERS.—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:

''(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period.''

(c) ELECTING SMALL BUSINESS TRUST DEFINED.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(e) ELECTING SMALL BUSINESS TRUST DEFINED.—

''(1) ELECTING SMALL BUSINESS TRUST.—For purposes of this section—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'electing small business trust' means any trust if—

''(i) such trust does not have as a beneficiary any person other than (I) an individual, (II) an estate, or (III) an organization described in paragraph (2), (3), (4), or (5) of section 170(c) which holds a contingent interest and is not a potential current beneficiary,

''(ii) no interest in such trust was acquired by purchase, and

''(iii) an election under this subsection applies to such trust.

''(B) CERTAIN TRUSTS NOT ELIGIBLE.—The term 'electing small business trust' shall not include—

''(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and

''(ii) any trust exempt from tax under this subtitle.

''(C) PURCHASE.—For purposes of subparagraph (A), the term 'purchase' means any acquisition if the basis of the property acquired is determined under section 1012.

''(2) POTENTIAL CURRENT BENEFICIARY.—For purposes of this section, the term 'potential current beneficiary' means, with respect to any period, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.

''(3) ELECTION.—An election under this subsection shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

''(4) CROSS REFERENCE.—

''For special treatment of electing small business trusts, see section 641(d).''

(d) TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new subsection:

''(d) SPECIAL RULES FOR TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—

''(1) IN GENERAL.—For purposes of this chapter—

''(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

''(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

''(2) MODIFICATIONS.—For purposes of paragraph (1), the modifications of this paragraph are the following:

''(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

''(B) The exemption amount under section 55(d) shall be zero.

''(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

''(i) The items required to be taken into account under section 1366.

''(ii) Any gain or loss from the disposition of stock in an S corporation.

''(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

''(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

''(3) TREATMENT OF REMAINDER OF TRUST AND DISTRIBUTIONS.—For purposes of determining—

''(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

''(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

''(4) TREATMENT OF UNUSED DEDUCTIONS WHERE TERMINATION OF SEPARATE TRUST.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

''(5) ELECTING SMALL BUSINESS TRUST.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e)(1).''

(e) TECHNICAL AMENDMENT.—Paragraph (1) of section 1366(a) is amended by inserting '', or of a trust or estate which terminates,'' after ''who dies''.

SEC. 14503. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS.

Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended—

(1) by striking ''60-day period'' each place it appears in clauses (ii) and (iii) and inserting ''2-year period'', and

(2) by striking the last sentence in clause (ii).

SEC. 14504. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT.

Clause (iii) of section 1361(c)(5)(B) (defining straight debt) is amended by striking ''or a trust described in paragraph (2)'' and inserting ''a trust described in paragraph (2), or a person which is actively and regularly engaged in the business of lending money.''

SEC. 14505. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

''(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

''(1) an election under subsection (a) by any corporation—

''(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

''(B) was terminated under paragraph (2) of subsection (d),

''(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

''(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

''(A) so that the corporation is a small business corporation, or

''(B) to acquire the required shareholder consents, and

''(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary.''

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end the following new paragraph:

''(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

''(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

''(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply).''

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 14506. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:

''(2) ELECTION TO TERMINATE YEAR.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, if any shareholder terminates the shareholder's interest in the corporation during the taxable year and all affected shareholders and the corporation agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

''(B) AFFECTED SHAREHOLDERS.—For purposes of subparagraph (A), the term 'affected shareholders' means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term 'affected shareholders' shall include all persons who are shareholders during the taxable year.''

SEC. 14507. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) IN GENERAL.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and''.

(b) DETERMINATION DEFINED.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) a determination as defined in section 1313(a), or''.

(c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.—

(1) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(2) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation)

is amended by adding at the end the following new subsection:

''(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

''(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

''(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

''(A) IN GENERAL.—In the case of any subchapter S item, if—

''(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

''(II) the corporation has not filed a return, and

''(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

''(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

''(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

''(ii) elects to have this paragraph apply with respect to that item.

''(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

''(A) described in subparagraph (A)(i)(I) of paragraph (2), and

''(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

''(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

''(5) ADDITION TO TAX FOR FAILURE TO COMPLY 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 subchapter A of chapter 68.''

(3) CONFORMING AMENDMENTS.—

(A) Section 1366 is amended by striking subsection (g).

(B) Subsection (b) of section 6233 is amended to read as follows:

''(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.''

(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

SEC. 14508. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) TREATMENT OF CERTAIN WHOLLY OWNED S CORPORATION SUBSIDIARIES.—Section 1361(b) (defining small business corporation) is amended by adding at the end the following new paragraph:

''(3) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—

''(A) IN GENERAL.—For purposes of this title—

''(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and

''(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

''(B) QUALIFIED SUBCHAPTER S SUBSIDIARY.—For purposes of this paragraph, the term 'qualified subchapter S subsidiary' means any domestic corporation which is not an ineligible corporation (as defined in paragraph (2)), if—

''(i) 100 percent of the stock of such corporation is held by the S corporation, and

''(ii) the S corporation elects to treat such corporation as a qualified subchapter S subsidiary.

''(C) TREATMENT OF TERMINATIONS OF QUALIFIED SUBCHAPTER S SUBSIDIARY STATUS.—For purposes of this title, if any corporation which was a qualified subchapter S subsidiary ceases to meet the requirements of subparagraph (B), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the S corporation in exchange for its stock.''

(c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Paragraph (3) of section 1362(d) is amended by adding at the end the following new subparagraph:

''(F) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.''

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1361 is amended by striking paragraph (6).

(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:

''(8) An S corporation.''

SEC. 14509. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)(A)''.

(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new sentence:

''In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year.''

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:

''(C) NET LOSS FOR YEAR DISREGARDED.—

''(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

''(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

''(I) the reductions in the account for the taxable year (other than for distributions), over

''(II) the increases in such account for such taxable year.''

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking ''as provided in subparagraph (B)'' and inserting ''as otherwise provided in this paragraph'', and

(2) by striking ''section 1367(b)(2)(A)'' and inserting ''section 1367(a)(2)''.

SEC. 14510. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.

Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

''(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders.''

SEC. 14511. ELIMINATION OF CERTAIN EARNINGS AND PROFITS.

(a) IN GENERAL.—If—

(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1995,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1362(d) is amended—

(A) by striking ''SUBCHAPTER C'' in the paragraph heading and inserting ''ACCUMULATED'',

(B) by striking ''subchapter C'' in subparagraph (A)(i)(I) and inserting ''accumulated'', and

(C) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(2)(A) Subsection (a) of section 1375 is amended by striking ''subchapter C'' in paragraph (1) and inserting ''accumulated''.

(B) Paragraph (3) of section 1375(b) is amended to read as follows:

''(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d).''

(C) The section heading for section 1375 is amended by striking ''**SUBCHAPTER C**'' and inserting ''**ACCUMULATED**''.

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking ''subchapter C'' in the item relating to section 1375 and inserting ''accumulated''.

(3) Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(D)'' and inserting ''section 1362(d)(3)(C)''.

SEC. 14512. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.

Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:

''(D) AT-RISK LIMITATIONS.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder's amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a).''

SEC. 14513. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.

(a) IN GENERAL.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new paragraph:

''(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

''(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

''(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of decedents dying after the date of the enactment of this Act.

SEC. 14514. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.

(a) IN GENERAL.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking ''other than a corporation'' in the material preceding paragraph (1) and inserting ''other than a C corporation''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 1237(a)(2) is amended by inserting ''an S corporation which included the taxpayer as a shareholder,'' after ''controlled by the taxpayer,''.

SEC. 14515. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this part, the amendments made by this part shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under section 1362(d) of such Code in a taxable year beginning before January 1, 1996, shall not be taken into account.

PART II—PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

SEC. 14521. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding ''and'' at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851(b) (as redesignated by subsection (a)) is amended—

(A) by striking out ''paragraphs (2) and (3)'' and inserting ''paragraph (2)'', and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking ''subsection (b)(4)'' each place it appears (including the heading) and inserting ''subsection (b)(3)''.

(3) Subsection (d) of section 851 is amended by striking ''subsections (b)(4)'' and inserting ''subsections (b)(3)''.

(4) Paragraph (1) of section 851(e) is amended by striking ''subsection (b)(4)'' and inserting ''subsection (b)(3)''.

(5) Paragraph (4) of section 851(e) is amended by striking ''subsections (b)(4)'' and inserting ''subsections (b)(3)''.

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking ''851(b)(4)'' in subparagraph (A) and inserting ''851(b)(3)'', and

(B) by striking ''851(b)(4)(A)(i)'' in subparagraph (B) and inserting ''851(b)(3)(A)(i)''.

(9) Section 1092(f)(2) is amended by striking ''Except for purposes of section 851(b)(3), the'' and inserting ''The''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

PART III—PROVISIONS RELATING TO REAL ESTATE INVESTMENT TRUSTS

SEC. 14531. CLARIFICATION OF LIMITATION ON MAXIMUM NUMBER OF SHAREHOLDERS.

(a) RULES RELATING TO DETERMINATION OF OWNERSHIP.—

(1) FAILURE TO ISSUE SHAREHOLDER DEMAND LETTER NOT TO DISQUALIFY REIT.—Section 857(a) (relating to requirements applicable to real estate investment trusts) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) SHAREHOLDER DEMAND LETTER REQUIREMENT; PENALTY.—Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) REAL ESTATE INVESTMENT TRUSTS TO ASCERTAIN OWNERSHIP.—

''(1) IN GENERAL.—Each real estate investment trust shall each taxable year comply with regulations prescribed by the Secretary for the purposes of ascertaining the actual ownership of the outstanding shares, or certificates of beneficial interest, of such trust.

''(2) FAILURE TO COMPLY.—

''(A) IN GENERAL.—If a real estate investment trust fails to comply with the requirements of paragraph (1) for a taxable year, such trust shall pay (on notice and demand by the Secretary and in the same manner as tax) a penalty of $25,000.

''(B) INTENTIONAL DISREGARD.—If any failure under paragraph (1) is due to intentional disregard of the requirement under paragraph (1), the penalty under subparagraph (A) shall be $50,000.

''(C) FAILURE TO COMPLY AFTER NOTICE.—The Secretary may require a real estate investment trust to take such actions as the Secretary determines appropriate to ascertain actual ownership if the trust fails to meet the requirements of paragraph (1). If the trust fails to take such actions, the trust shall pay (on notice and demand by the Secretary and in the same manner as tax) an additional penalty equal to the penalty determined under subparagraph (A) or (B), whichever is applicable.

''(D) REASONABLE CAUSE.—No penalty shall be imposed under this paragraph with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.''

(b) COMPLIANCE WITH CLOSELY HELD PROHIBITION.—

(1) IN GENERAL.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

''(k) REQUIREMENT THAT ENTITY NOT BE CLOSELY HELD TREATED AS MET IN CERTAIN CASES.—A corporation, trust, or association—

''(1) which for a taxable year meets the requirements of section 857(f)(1), and

''(2) which does not know, or exercising reasonable diligence would not have known, whether the entity failed to meet the requirement of subsection (a)(6),

shall be treated as having met the requirement of subsection (a)(6) for the taxable year.''

(2) CONFORMING AMENDMENT.—Paragraph (6) of section 856(a) is amended by inserting ''subject to the provisions of subsection (k),'' before ''which is not''.

SEC. 14532. DE MINIMIS RULE FOR TENANT SERVICES INCOME.

(a) IN GENERAL.—Paragraph (2) of section 856(d) (defining rents from real property) is amended by striking subparagraph (C) and the last sentence and inserting:

''(C) any impermissible tenant service income (as defined in paragraph (7)).''

(b) IMPERMISSIBLE TENANT SERVICE INCOME.—Section 856(d) is amended by adding at the end the following new paragraph:

''(7) IMPERMISSIBLE TENANT SERVICE INCOME.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—The term 'impermissible tenant service income' means, with respect to any real or personal property, any amount received or accrued directly or indirectly by the real estate investment trust for—

''(i) services furnished or rendered by the trust to the tenants of such property, or

''(ii) managing or operating such property.

''(B) DISQUALIFICATION OF ALL AMOUNTS WHERE MORE THAN DE MINIMIS AMOUNT.—If the amount described in subparagraph (A) with respect to a property for any taxable year exceeds 1 percent of all amounts received or accrued during such taxable year directly or indirectly by the real estate investment trust with respect to such property, the impermissible tenant service income of the trust with respect to the property shall include all such amounts.

''(C) EXCEPTIONS.—For purposes of subparagraph (A)—

''(i) services furnished or rendered, or management or operation provided, through an independent contractor from whom the trust itself does not derive or receive any income shall not be treated as furnished, rendered, or provided by the trust, and

''(ii) there shall not be taken into account any amount which would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 511(a)(2).

''(D) AMOUNT ATTRIBUTABLE TO IMPERMISSIBLE SERVICES.—For purposes of subparagraph (A), the amount treated as received for any service (or management or operation) shall not be less than 150 percent of the direct cost of the trust in furnishing or rendering the service (or providing the management or operation).

''(E) COORDINATION WITH LIMITATIONS.—For purposes of paragraphs (2) and (3) of subsection (c), amounts described in subparagraph (A) shall be included in the gross income of the corporation, trust, or association.''

SEC. 14533. ATTRIBUTION RULES APPLICABLE TO TENANT OWNERSHIP.

Section 856(d)(5) (relating to constructive ownership of stock) is amended by adding at the end the following: ''For purposes of paragraph (2)(B), section 318(a)(3)(A) shall be applied under the preceding sentence in the case of a partnership by taking into account only partners who own (directly or indirectly) 25 percent or more of the capital interest, or the profits interest, in the partnership.''

SEC. 14534. CREDIT FOR TAX PAID BY REIT ON RETAINED CAPITAL GAINS.

(a) GENERAL RULE.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) TREATMENT BY SHAREHOLDERS OF UNDISTRIBUTED CAPITAL GAINS.—

''(i) Every shareholder of a real estate investment trust at the close of the trust's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the trust's taxable year falls, such amount as the trust shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 60 days after the close of its taxable year (or mailed to its shareholders or holders of beneficial interests with its annual report for the taxable year), but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A)(ii) which he would have received if all of such amount had been distributed as capital gain dividends by the trust to the holders of such shares at the close of its taxable year.

''(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for his taxable year under clause (i), the tax imposed by subparagraph (A)(ii) on the amounts required by this subparagraph to be included in respect of such shares in computing his long-term capital gains for that year; and such shareholders shall be allowed credit or refund as the case may be, for the tax so deemed to have been paid by him.

''(iii) The adjusted basis of such shares in the hands of the holder shall be increased with respect to the amounts required by this subparagraph to be included in computing his long-term capital gains, by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).

''(iv) In the event of such designation, the tax imposed by subparagraph (A)(ii) shall be paid by the real estate investment trust within 30 days after the close of its taxable year.

''(v) The earnings and profits of such real estate investment trust, and the earnings and profits of any such shareholder which is a corporation, shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.

''(vi) As used in this subparagraph, the terms 'shares' and 'shareholders' shall include beneficial interests and holders of beneficial interests, respectively.''

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 857(b)(7)(A) is amended by striking ''subparagraph (B)'' and inserting ''subparagraph (B) or (D)''.

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking ''by 65 percent'' and all that follows and inserting ''by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).''

SEC. 14535. REPEAL OF 30-PERCENT GROSS INCOME REQUIREMENT.

(a) GENERAL RULE.—Subsection (c) of section 856 (relating to limitations) is amended—

(1) by adding ''and'' at the end of paragraph (3),

(2) by striking paragraphs (4) and (8), and

(3) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 856(c)(5), as redesignated by subsection (a), is amended by striking ''and such agreement shall be treated as a security for purposes of paragraph (4)(A)''.

(2) Paragraph (5) of section 857(b) is amended by striking ''section 856(c)(7)'' and inserting ''section 856(c)(6)''.

(3) Subparagraph (C) of section 857(b)(6) is amended by striking ''section 856(c)(6)(B)'' and inserting ''section 856(c)(5)(B)''.

SEC. 14536. MODIFICATION OF EARNINGS AND PROFITS RULES FOR DETERMINING WHETHER REIT HAS EARNINGS AND PROFITS FROM NON-REIT YEAR.

Subsection (d) of section 857 is amended by adding at the end the following new paragraph:

''(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

''(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from the earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies) rather than the most recently accumulated earnings and profits, and

''(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(B).''

SEC. 14537. TREATMENT OF FORECLOSURE PROPERTY.

(a) GRACE PERIODS.—

(1) INITIAL PERIOD.—Paragraph (2) of section 856(e) (relating to special rules for foreclosure property) is amended by striking ''on the date which is 2 years after the date the trust acquired such property'' and inserting ''as of the close of the 3d taxable year following the taxable year in which the trust acquired such property''.

(2) EXTENSION.—Paragraph (3) of section 856(e) is amended—

(A) by striking ''or more extensions'' and inserting ''extension'', and

(B) by striking the last sentence and inserting: ''Any such extension shall not extend the grace period beyond the close of the 3d taxable year following the last taxable year in the period under paragraph (2).''

(b) REVOCATION OF ELECTION.—Paragraph (5) of section 856(e) is amended by striking the last sentence and inserting: ''A real estate investment trust may revoke any such election for a taxable year by filing the revocation (in the manner provided by the Secretary) on or before the due date (including any extension of time) for filing its return of tax under this chapter for the taxable year. If a trust revokes an election for any property, no election may be made by the trust under this paragraph with respect to the property for any subsequent taxable year.''

(c) CERTAIN ACTIVITIES NOT TO DISQUALIFY PROPERTY.—Paragraph (4) of section 856(e) is amended by adding at the end the following new flush sentence:

''For purposes of subparagraph (C), property shall not be treated as used in a trade or business by reason of any activities of the real estate investment trust with respect to such property to the extent that such activities would not result in amounts received or accrued, directly or indirectly, with respect to such property being treated as other than rents from real property.''

SEC. 14538. PAYMENTS UNDER HEDGING INSTRUMENTS.

Section 856(c)(5)(G) (relating to treatment of certain interest rate agreements), as redesignated by section 14535, is amended to read as follows:

''(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent provided by regulations, any—

''(i) payment to a real estate investment trust under an interest rate swap or cap agreement, option, futures contract, forward rate agreement, or any similar financial instrument, entered into by the trust in a transaction to reduce the interest rate risks with respect to any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

''(ii) gain from the sale or other disposition of any such investment,

shall be treated as income qualifying under paragraph (2).''

SEC. 14539. EXCESS NONCASH INCOME.

Section 857(e)(2) (relating to determination of amount of excess noncash income) is amended—

(1) by striking subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a comma,

(3) by redesignating subparagraph (C) (as amended by paragraph (2)) as subparagraph (B), and

(4) by adding at the end the following new subparagraphs:

''(C) the amount (if any) by which—

''(i) the amounts includible in gross income with respect to instruments to which section 860E(a) or 1272 applies, exceed

''(ii) the amount of money and the fair market value of other property received during the taxable year under such instruments, and

''(D) amounts includible in income by reason of cancellation of indebtedness.''

SEC. 14540. PROHIBITED TRANSACTION SAFE HARBOR.

Clause (iii) of section 857(b)(6)(C) (relating to certain sales not to constitute prohibited transactions) is amended by striking ''(other than foreclosure property)'' in subclauses (I) and (II) and inserting ''(other than sales of foreclosure property or sales to which section 1033 applies)''.

SEC. 14541. SHARED APPRECIATION MORTGAGES.

(a) BANKRUPTCY SAFE HARBOR.—Section 856(j) (relating to treatment of shared appreciation mortgages) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) COORDINATION WITH 4-YEAR HOLDING PERIOD.—

''(A) IN GENERAL.—For purposes of section 857(b)(6)(C), if a real estate investment trust is treated as having sold secured property under paragraph (3)(A), the trust shall be treated as having held such property for at least 4 years if—

''(i) the secured property is sold or otherwise disposed of pursuant to a case under title 11 of the United States Code,

''(ii) the seller is under the jurisdiction of the court in such case, and

''(iii) the disposition is required by the court or is pursuant to a plan approved by the court.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if—

''(i) the secured property was acquired by the trust with the intent to evict or foreclose, or

''(ii) the trust knew or had reason to know that default on the obligation described in paragraph (5)(A) would occur.''

(b) CLARIFICATION OF DEFINITION OF SHARED APPRECIATION PROVISION.—Clause (ii) of section 856(j)(5)(A) is amended by inserting before the period ''or appreciation in value as of any specified date''.

SEC. 14542. WHOLLY OWNED SUBSIDIARIES.

Section 856(i)(2) (defining qualified REIT subsidiary) is amended by striking ''at all times during the period such corporation was in existence''.

SEC. 14543. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after the date of the enactment of this Act.

PART IV—ACCOUNTING PROVISIONS

SEC. 14551. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end the following new paragraph:

''(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

''(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

''(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

''(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

''(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

''(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

''(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

''(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

''(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

''(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year.''

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking ''the overpayment rate established by section 6621'' and inserting ''the adjusted overpayment rate (as defined in paragraph (7))''.

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end the following new paragraph:

''(7) ADJUSTED OVERPAYMENT RATE.—

''(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

''(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

''(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

''(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 14552. APPLICATION OF MARK TO MARKET ACCOUNTING METHOD TO TRADERS IN SECURITIES.

(a) IN GENERAL.—Section 475 (relating to mark to market accounting method for dealers in securities) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) AUTHORITY TO EXTEND METHOD TO TRADERS IN SECURITIES.—

''(1) IN GENERAL.—A trader in securities may elect to have the provisions of this section (other than subsection (d)(3)) apply to securities held by the trader. Such election may be made only with the consent of the Secretary.

''(2) TRADER IN SECURITIES.—For purposes of this subsection, the term 'trader in securities' means a taxpayer who is regularly engaged in trading securities.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on and after December 31, 1995.

SEC. 14553. MODIFICATION OF RULING AMOUNTS FOR NUCLEAR DECOMMISSIONING COSTS.

(a) IN GENERAL.—Section 468A(d) (relating to ruling amount) is amended by adding at the end the following new paragraph:

''(4) NONSUBSTANTIAL MODIFICATIONS.—A taxpayer may modify a schedule of ruling amounts under paragraph (1) without a review under paragraph (3) if such modification does not substantially modify the ruling amount. The taxpayer shall notify the Secretary of any such modification.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to modifications after the date of the enactment of this Act.

SEC. 14554. ELECTION OF ALTERNATIVE TAXABLE YEARS BY PARTNERSHIPS AND S CORPORATIONS.

(a) REPEAL OF LIMITATION ON WHAT TAXABLE YEAR MAY BE ELECTED.—

(1) IN GENERAL.—Section 444(b) (relating to limitations on taxable years which may be elected) is amended by adding at the end the following new paragraph:

''(5) LIMITATIONS NOT TO APPLY TO CERTAIN PARTNERSHIPS AND S CORPORATIONS.—

''(A) IN GENERAL.—In the case of a partnership or an S corporation, this subsection shall not apply to an election under subsection (a) for a taxable year beginning after December 31, 1996.

''(B) SPECIAL RULE FOR EXISTING ELECTIONS.—

''(i) IN GENERAL.—If a partnership or S corporation has an election in effect for its last taxable year beginning before January 1, 1997, the partnership or S corporation may elect to have this paragraph apply beginning with any taxable year beginning after December 31, 1996. Such an election may be made without the consent of the Secretary and shall not be treated as a termination of an election for purposes of subsection (d).

''(ii) TREATMENT OF REQUIRED PAYMENTS.—A partnership or S corporation making an election under clause (i) may elect to have its net required payment balance (within the meaning of section 7519(e)(4))—

''(I) credited against its first estimated tax payment under section 6654A for its first full taxable year for which such section applies, or

''(II) refunded to it at the time provided in section 7519(c)(3).''

(2) EFFECT OF ELECTION.—Paragraph (1) of section 444(c) (relating to effect of election) is amended to read as follows:

''(1) in the case of a partnership or S corporation, such entity shall—

''(A) make the payments required by section 7519, or

''(B) if subsection (b)(5) applies to the election, make the estimated tax payments described in section 6654A, and''.

(b) ESTIMATED TAX FOR PARTNERSHIPS AND S CORPORATIONS MAKING TAXABLE YEAR ELECTIONS.—Part I of subchapter A of chapter 68 (relating to additions to tax and additional amounts) is amended by inserting after section 6654 the following new section:

''SEC. 6654A. FAILURE BY ELECTING PARTNERSHIP OR S CORPORATION TO PAY ESTIMATED TAX.

''(a) PENALTY.—Except as otherwise provided in this section, in the case of a partnership or S corporation with respect to which an election to which section 444(b)(5) applies is in effect (hereafter referred to as 'the entity'), there is hereby imposed a penalty for each quarter for which there is an underpayment in an amount determined by applying—

''(1) the underpayment rate established under section 6621,

''(2) to the amount of the underpayment,

''(3) for the period of the underpayment.

''(b) AMOUNT OF UNDERPAYMENT; PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

''(1) AMOUNT.—The amount of the underpayment shall be the excess of—

''(A) the required installment, over

''(B) the amount (if any) of the installment paid on or before the due date for the installment.

''(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to the earlier of—

''(A) the first April 15 more than 3 months after the close of the taxable year, or

''(B) with respect to any portion of the underpayment, the date on which such portion is paid.

''(3) ORDER OF CREDITING PAYMENTS.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

''(c) REQUIRED INSTALLMENTS.—For purposes of this section—

''(1) NUMBER AND DATES.—An entity shall make 4 required installments which shall be due on the 15th day of the 3d, 5th, 8th, and 12th months of the taxable year.

''(2) NO REQUIRED PAYMENTS WHERE ENTITY'S LIABILITY IS LESS THAN $5,000.—An entity shall not be required to make estimated payments under this section for any taxable year for which (but for this paragraph) its aggregate liability under this section would be less than $5,000.

''(3) AMOUNT.—The amount of each required installment shall be 25 percent of the product of—

''(A) the entity's applicable income determined under its applicable method for the quarter for which the installment is being made, and

''(B) the applicable rate.

''(4) APPLICABLE RATE.—

''(A) IN GENERAL.—The term 'applicable rate' means 34 percent (39.6 percent in the case of an entity described in subparagraph (B)).

''(B) HIGH AVERAGE INCOME ENTITY.—

''(i) IN GENERAL.—An entity is described in this subparagraph if—

''(I) the average applicable income of 2-percent owners of the entity for its base year is $250,000 or more, or

''(II) in the case of a partnership, its applicable income for the base year is $10,000,000 or more.

An entity shall not be treated as so described if it has no base year.

''(ii) 2-PERCENT OWNER.—The term '2-percent owner' means—

''(I) in the case of a partnership, any person who owns (or is considered as owning within the meaning of section 318) on any day during the base year more than 2 percent of the capital interests of the partnerships, and

''(II) in the case of an S corporation, a 2-percent shareholder (as defined in section 1372(b)).

''(5) ADJUSTMENTS UNDER ANNUALIZED INCOME METHOD.—An entity using the annualized income method shall adjust its required installment for any quarter to reflect any change in its required installment for any prior quarter in the taxable year which would have been required if the annualized applicable income for the current quarter had been used for the prior quarter.

''(d) APPLICABLE METHOD.—For purposes of this section—

''(1) IN GENERAL.—An entity shall determine its applicable income on the basis of the 100-percent method.

''(2) EXCEPTIONS.—

''(A) ELECTIONS.—An entity may determine its applicable income—

''(i) for all quarters in a taxable year on the basis of the 110-percent method if it elects such method on or before the due date for the first quarterly installment, or

''(ii) for any quarter in a taxable year on the basis of the annualized income method if it elects such method on or before the due date for the quarterly installment for such quarter.

An election under clause (ii) shall apply for the quarter for which made and all subsequent quarters during the taxable year.

''(B) LARGE INCREASE IN INCOME.—If an entity's applicable income for the taxable year exceeds its applicable income for the base year by more than $750,000, the entity may not use the 110-percent method for the taxable year.

''(3) METHODS.—

''(A) 100-PERCENT METHOD.—Under the 100-percent method, an entity's applicable income shall be its applicable income for the taxable year.

''(B) 110-PERCENT METHOD.—Under the 110-percent method, an entity's applicable income shall be 110 percent of its applicable income for the base year.

''(C) ANNUALIZED INCOME METHOD.—Under the annualized income method, the entity's applicable income for purposes of determining the required installment for any quarter shall be an amount equal to the product of—

''(i) its applicable income for the period consisting of the months in the taxable year ending before the due date for the quarter, and

''(ii) a percentage equal to 12 divided by the number of such months.

''(e) APPLICABLE INCOME.—

''(1) IN GENERAL.—For purposes of this section, the applicable income for any taxable year shall be the net amount (not less than zero) determined—

''(A) by taking into account the entity's items in the manner and with the exceptions provided in section 703(a) or 1363(b), as the case may be, and

''(B) by making the further adjustments provided in paragraphs (2), (3), (4), and (5) of this subsection.

''(2) CERTAIN DEDUCTIONS ALLOWED.—In determining applicable income, the following amounts shall be allowed as deductions:

''(A) The deduction allowable under section 170 for charitable contributions of the entity.

''(B) The deduction allowable under section 901 for taxes described in section 901(c) paid or accrued to foreign countries or possessions of the United States.

''(3) CERTAIN LIMITATIONS DISREGARDED.—For purposes of paragraphs (1) and (2), any limitation on the amount of any item which may be taken into account for purposes of computing the taxable income of a partner or shareholder shall be disregarded.

''(4) GUARANTEED PAYMENTS TO PARTNERS NOT DEDUCTED.—In determining applicable income, a guaranteed payment to a partner shall not be treated as an item of deduction.

''(5) DISPROPORTIONATE APPLICABLE PAYMENTS DURING DEFERRAL PERIOD.—

''(A) DEDUCTION NOT ALLOWED.—In determining applicable income, no deduction shall be allowed for disproportionate deferral period applicable payments.

''(B) DISPROPORTIONATE DEFERRAL PERIOD APPLICABLE PAYMENTS.—For purposes of subparagraph (A), the term 'disproportionate deferral period applicable payments' means the excess (if any) of—

''(i) the product of the deferral ratio and the aggregate applicable payments made to owners during the entity's entire taxable year, over

''(ii) the aggregate applicable payments made to owners during the deferral period.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'applicable payments' has the meaning given to such term by section 7519(d)(3), except that in the case of an S corporation only payments to 2-percent shareholders (as defined in section 1372(b)) shall be taken into account,

''(ii) the term 'deferral period' means the months in the period beginning with the first day of the entity's taxable year and ending on December 31, and

''(iii) the term 'deferral ratio' means the ratio which the number of months in the deferral period bears to the total number of months in the taxable year.

''(6) SPECIAL RULE WHERE C CORPORATION FOR BASE YEAR.—In applying the 110-percent method, if an S corporation was a C corporation for the base year, the S corporation's applicable income shall be the taxable income of the C corporation for the base year.

''(f) COORDINATION BETWEEN ENTITY AND OWNERS.—

''(1) TREATMENT OF PAYMENTS OF REQUIRED INSTALLMENTS.—

''(A) IN GENERAL.—For purposes of this title, an owner in an entity shall be treated as having paid, for the owner's first taxable year ending with or after the close of the entity's taxable year, an amount of tax imposed by section 1 equal to the owner's allocable share of the entity's payments of required installments under this section (determined without regard to excess payments described in subparagraph (C)(ii)(II) or amounts the entity is treated as paying under paragraph (2)).

''(B) COORDINATION WITH OWNER'S ESTIMATED TAX.—For purposes of section 6654, an individual shall be treated as having paid on the due date for the estimated tax installment for each quarter of the individual's taxable year described in subparagraph (A)—

''(i) except as provided in clause (ii), 25 percent of the tax deemed paid under subparagraph (A), or

''(ii) if the annualized income method was used by the entity for any quarter of the entity's taxable year described in subparagraph (A), an amount for the corresponding quarter in the individuals's taxable year equal to the portion of such tax attributable to the individual's allocable share of the entity's applicable income for the entity's quarter.

In no event shall the aggregate estimated tax payments treated as paid under this subparagraph exceed the amount of tax determined under subparagraph (A).

''(C) AMOUNTS DETERMINED ON BASIS OF RETURN.—

''(i) IN GENERAL.—The determination of the amount of tax payments under subparagraph (A) shall be made on the basis of amounts shown on the entity's return for the taxable year.

''(ii) RECONCILIATION OF DIFFERENCES.—If, as of the first April 15 more than 3 months after the close of the entity's taxable year, the aggregate amounts paid as required installments under this section are less or more than the aggregate amounts described in clause (i) shown on the entity's return of tax for the taxable year, then—

''(I) subject to paragraph (2), there is hereby imposed on the entity under chapter 1 an additional tax equal to the amount of the shortfall, the due date for which is such April 15, or

''(II) the entity shall be treated as having made a payment of tax under chapter 1 on such April 15 in an amount equal to the excess.

''(2) TREATMENT OF PAYMENTS BY OWNERS.—For purposes of subsection (b)(2)(B) and paragraph (1)(C), an entity shall be treated as paying any portion of an underpayment attributable to an owner's allocable share of applicable income at the time the tax imposed by chapter 1 on the owner with respect to such income is paid.

''(3) ALLOCABLE SHARE.—For purposes of this subsection—

''(A) IN GENERAL.—An owner's allocable share of an item for a taxable year shall be an amount which bears the same ratio to the amount of such item as the owner's applicable income for the taxable year bears to the sum of the applicable incomes of all owners. For purposes of this subparagraph, applicable income of an owner shall be determined in the same manner as subsection (e).

''(B) APPLICATION OTHER THAN ON TAXABLE YEAR BASIS.—If—

''(i) the entity elects the annualized income method for any quarter, subparagraph (A) shall be applied on a quarter-by-quarter basis, or

''(ii) there is an interim closing of the books of an entity under this title, subparagraph (A) shall be applied separately for the periods before and after the closing.

''(g) SPECIAL RULES FOR SHORT YEAR CREATED BY ELECTION.—

''(1) ADDITIONAL REQUIRED INSTALLMENT.—If, by reason of an election under this section, an entity has a taxable year of less than 12 months, the entity shall make a required installment under this section for such taxable year—

''(A) which shall be in an amount equal to the applicable rate multiplied by the lesser of—

''(i) the entity's applicable income for such taxable year as determined under subsection (e), or

''(ii) 110 percent of the entity's applicable income for the base year (as so determined but ratably reduced to reflect the period of such taxable year), and

''(B) the due date for which shall be the last day for which an election under this section could be made for the taxable year.

''(2) TREATMENT OF LOSSES.—Any net operating loss arising in the taxable year described in paragraph (1) shall be treated as arising one-third in such taxable year and each of the 2 following taxable years. This paragraph shall not apply to an entity not in existence before such taxable year unless more than one-half of the equity interests in the entity are held by persons who owned another entity carrying on the same business before such taxable year.

''(h) OTHER DEFINITIONS AND SPECIAL RULES.—For purpose of this section—

''(1) BASE YEAR.—The term 'base year' means the most recent preceding taxable year containing 12 months.

''(2) EQUITY INTEREST.—The term 'equity interest' means—

''(A) in the case of a partnership, the capital interests, and

''(B) in the case of an S corporation, the shares of stock in the corporation (whether voting or nonvoting).

''(3) OWNER.—The term 'owner' means a partner in a partnership or a shareholder in an S corporation, whichever is applicable.

''(4) COMMON CONTROL.—

''(A) IN GENERAL.—For purposes of subsections (c)(2), (c)(4)(B), and (d)(2)(B), entities under common control shall be treated as 1 entity.

''(B) COMMON CONTROL.—Entities shall be treated as under common control under subparagraph (A) if they are treated as a single employee under subsection (a) or (b) of section 52.

''(5) WAIVER.—No penalty shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of the penalty would be against equity and good conscience.''

(c) MODIFICATION OF ELECTIONS.—

(1) TIME FOR MAKING.—Paragraph (1) of section 444(d) is amended by adding at the end the following new sentence: ''Such election may be made at any time on or before the 15th day of the 3d month of the first taxable year of 12 months under the election.''

(2) TERMINATIONS.—Paragraph (2) of section 444(d) is amended by striking subparagraph (B) and inserting:

''(B) TERMINATIONS.—

''(i) REVOCATION.—An election under subsection (a) may be terminated by revocation but only if owners of more than one-half of the equity interests in the entity on the date of the revocation consent to it.

''(ii) ENTITY TERMINATIONS.—In the case of a partnership or S corporation, an election under subsection (a) terminates when the partnership terminates under section 708(b)(1) or the corporation ceases to be an S corporation.

''(C) SUBSEQUENT ELECTIONS.—If an election under subsection (a) has been terminated, no such election may be made with respect to such entity or any successor entity for any taxable year before its 5th taxable year beginning after the 1st taxable year for which the termination was effective, unless the Secretary consents to the election.''

(d) CONFORMING AMENDMENTS.—

(1) Section 6665(b) is amended—

(A) by inserting ''6654A,'' after ''6654,'', and

(B) by striking ''6654 or'' and inserting ''6654, 6654A, or''.

(2) The table of sections for part I of subchapter A of chapter 68 is amended by inserting after the item relating to section 6654 the following new item:

''Sec. 6654A. Failure by electing partnership or S corporation to pay estimated tax.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 14555. SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.

(a) IN GENERAL.—Section 451(d) of the Internal Revenue Code of 1986 (relating to special rule for crop insurance proceeds and disaster payments) is amended to read as follows:

''(d) SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.—

''(1) GENERAL RULE.—In the case of any payment described in paragraph (2), a taxpayer reporting on the cash receipts and disbursements method of accounting—

''(A) may elect to treat any such payment received in the taxable year of destruction or damage of crops as having been received in the following taxable year if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in a following taxable year, or

''(B) may elect to treat any such payment received in a taxable year following the taxable year of the destruction or damage of crops as having been received in the taxable year of destruction or damage, if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in the taxable year of destruction or damage.

''(2) PAYMENTS DESCRIBED.—For purposes of this subsection, a payment is described in this paragraph if such payment—

''(A) is insurance proceeds received on account of destruction or damage to crops, or

''(B) is disaster assistance received under any Federal law as a result of—

''(i) destruction or damage to crops caused by drought, flood, or other natural disaster, or

''(ii) inability to plant crops because of such a disaster.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to payments received after December 31, 1995, as a result of destruction or damage occurring after such date.

PART V—TAX-EXEMPT BOND PROVISIONS

SEC. 14561. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking ''the lesser of 5 percent of the proceeds of the issue or $100,000'' and inserting ''5 percent of the proceeds of the issue''.

SEC. 14562. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end the following new clause:

''(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue.''

SEC. 14563. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 14564. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 14565. EFFECTIVE DATES.

The amendments made by this part shall apply to bonds issued after the date of the enactment of this Act.

PART VI—INSURANCE PROVISIONS

SEC. 14571. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking ''or'' at the end of subparagraph (A), by striking ''and'' at the end of subparagraph (B) and inserting ''or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and''.

(2) Paragraph (3) of section 817(d) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14572. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

''SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

''(a) COMPUTATION OF RESERVES.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

''(b) SEGREGATED ASSETS UNDER MODIFIED GUARANTEED CONTRACTS MARKED TO MARKET.—

''(1) IN GENERAL.—In the case of any life insurance company, for purposes of this subtitle—

''(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

''(B) If any segregated asset is held by such company as of the close of any taxable year—

''(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

''(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

''(2) SEGREGATED ASSET.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

''(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE RESERVES.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

''(d) MODIFIED GUARANTEED CONTRACT DEFINED.—For purposes of this section, the

term 'modified guaranteed contract' means a contract not described in section 817—

''(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

''(2) which—

''(A) provides for the payment of annuities,

''(B) is a life insurance contract, or

''(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,

''(3) for which reserves are valued at market for annual statement purposes, and

''(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

''(e) REGULATIONS.—The Secretary may prescribe regulations—

''(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

''(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

''(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,

''(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

''(5) as may be necessary or appropriate to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

''Sec. 817A. Special rules for modified guaranteed contracts.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) TREATMENT OF NET ADJUSTMENTS.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

SEC. 14573. MINIMUM TAX TREATMENT OF CERTAIN PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(B) (relating to inclusion of items included for purposes of computing earnings and profits) is amended by adding at the end the following new sentence: ''In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

PART VII—OTHER PROVISIONS

SEC. 14581. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

''(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise).''

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

''(2) TREATMENT OF DISPOSITIONS.—''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.

SEC. 14582. CREDIT FOR SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) REPORTING REQUIREMENT NOT CONSIDERED.—Subparagraph (A) of section 45B(b)(1) (relating to excess employer social security tax) is amended by inserting ''(without regard to whether such tips are reported under section 6053)'' after ''section 3121(q)''.

(b) TAXES PAID.—Subsection (d) of section 13443 of the Revenue Reconciliation Act of 1993 is amended by inserting '', with respect to services performed before, on, or after such date'' after ''1993''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by, and the provisions of, section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 14583. DUE DATE FOR FIRST QUARTER ESTIMATED TAX PAYMENTS BY PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Paragraph (3) of section 6655(g) is amended by inserting after subparagraph (C) the following new subparagraph:

''(D) In the case of any private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15' ''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 14584. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.

(a) GENERAL RULE.—Section 512 (defining unrelated business taxable income) is amended by adding at the end thereof the following new subsection:

''(d) TREATMENT OF DUES OF AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.—

''(1) IN GENERAL.—If—

''(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

''(B) the amount of such required annual dues does not exceed $100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

''(2) INDEXATION OF $100 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—

''(A) $100, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

''(3) DUES.—For purposes of this subsection, the term 'dues' includes any payment required to be made in order to be recognized by the organization as a member of the organization.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

Subtitle F—Estates and Trusts

PART I—INCOME TAX PROVISIONS

SEC. 14601. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

(a) IN GENERAL.—Subpart A of part I of subchapter J (relating to estates, trusts, beneficiaries, and decedents) is amended by adding at the end the following new section:

''SEC. 646. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

''(a) GENERAL RULE.—For purposes of this subtitle, if both the executor of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable years of the estate ending after the date of the decedent's death and before the applicable date.

''(b) DEFINITIONS.—For purposes of subsection (a)—

''(1) QUALIFIED REVOCABLE TRUST.—The term 'qualified revocable trust' means any trust all of which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a).

''(2) APPLICABLE DATE.—The term 'applicable date' means—

''(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and

''(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

''(c) ELECTION.—The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable.''

(b) COMPARABLE TREATMENT UNDER GENERATION-SKIPPING TAX.—Paragraph (1) of section 2652(b) is amended by adding at the end the following new sentence: ''Such term shall not include any trust during any period the trust is treated as part of an estate under section 646.''

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end the following new item:

''Sec. 646. Certain revocable trusts treated as part of estate.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 14602. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE.

(a) IN GENERAL.—Subsection (b) of section 663 (relating to distributions in first 65 days of taxable year) is amended by inserting ''an estate or'' before ''a trust'' each place it appears.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 663(b) is amended by striking ''the fiduciary of such trust'' and inserting ''the executor of such estate or the fiduciary of such trust (as the case may be)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 14603. SEPARATE SHARE RULES AVAILABLE TO ESTATES.

(a) IN GENERAL.—Subsection (c) of section 663 (relating to separate shares treated as separate trusts) is amended—

(1) by inserting before the last sentence the following new sentence: ''Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates.'', and

(2) by inserting ''or estates'' after ''trusts'' in the last sentence.

(b) CONFORMING AMENDMENT.—The subsection heading of section 663(c) is amended by inserting ''ESTATES OR'' before ''TRUSTS''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 14604. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF LOSSES, ETC.

(a) DISALLOWANCE OF LOSSES.—Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ''; or'', and by adding at the end the following new paragraph:

''(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.''

(b) ORDINARY INCOME FROM GAIN FROM SALE OF DEPRECIABLE PROPERTY.—Subsection (b) of section 1239 is amended by striking the period at the end of paragraph (2) and inserting '', and'' and by adding at the end the following new paragraph:

''(3) except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 14605. LIMITATION ON TAXABLE YEAR OF ESTATES.

(a) IN GENERAL.—Section 645 (relating to taxable year of trusts) is amended to read as follows:

''SEC. 645. TAXABLE YEAR OF ESTATES AND TRUSTS.

''(a) ESTATES.—For purposes of this subtitle, the taxable year of an estate shall be a year ending on October 31, November 30, or December 31.

''(b) TRUSTS.—

''(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any trust shall be the calendar year.

''(2) EXCEPTION FOR TRUSTS EXEMPT FROM TAX AND CHARITABLE TRUSTS.—Paragraph (1) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1).''

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by striking the item relating to section 645 and inserting the following new item:

''Sec. 645. Taxable year of estates and trusts.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 14606. REPEAL OF CERTAIN THROWBACK RULES APPLICABLE TO DOMESTIC TRUSTS.

(a) ACCUMULATION DISTRIBUTIONS.—

(1) IN GENERAL.—Section 665 is amended by adding at the end the following new subsection:

''(f) ACCUMULATION DISTRIBUTIONS AFTER 1995.—For purposes of this subpart, in the case of a trust other than a foreign trust, any distribution in any taxable year beginning after December 31, 1995, shall be computed without regard to any undistributed net income.''

(2) CONFORMING AMENDMENT.—Subsection (b) of section 665 is amended by inserting ''except as provided in subsection (f),'' after ''subpart,''

(b) PROPERTY TRANSFERRED TO TRUSTS.—Subsection (e) of section 644 is amended by striking ''or'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', or '', and by adding at the end the following new paragraph:

''(5) in the case of a trust other than a foreign trust, any sale or exchange of property after December 31, 1995.''

(c) EFFECTIVE DATES.—

(1) ACCUMULATION DISTRIBUTION.—The amendments made by subsection (a) shall apply to distributions in taxable years beginning after December 31, 1995.

(2) TRANSFERRED PROPERTY.—The amendments made by subsection (b) shall apply to sales or exchanges after December 31, 1995.

SEC. 14607. TREATMENT OF FUNERAL TRUSTS.

(a) IN GENERAL.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

''SEC. 684. TREATMENT OF FUNERAL TRUSTS.

''(a) IN GENERAL.—In the case of a qualified funeral trust—

''(1) subparts B, C, D, and E shall not apply, and

''(2) no deduction shall be allowed by section 642(b).

''(b) QUALIFIED FUNERAL TRUST.—For purposes of this subsection, the term 'qualified funeral trust' means any trust (other than a foreign trust) if—

''(1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,

''(2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,

''(3) the only beneficiaries of such trust are individuals who have entered into contracts described in paragraph (1) to have such services or property provided at their death,

''(4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,

''(5) the trustee elects the application of this subsection, and

''(6) the trust would (but for the election described in paragraph (5)) be treated as owned by the beneficiaries under subpart E.

''(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—

''(1) IN GENERAL.—The term 'qualified funeral trust' shall not include any trust which accepts contributions by or for the benefit of an individual in excess of $5,000.

''(2) RELATED TRUSTS.—For purposes of paragraph (1), all trusts having trustees which are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if—

''(A) the relationship between such persons would result in the disallowance of losses under section 267 or 707(b),

''(B) such persons are treated as a single employer under subsection (a) or (b) of section 52, or

''(C) the Secretary determines that treating such persons as related is necessary to prevent avoidance of the purposes of this section.

''(3) INFLATION ADJUSTMENT.—In the case of any contract referred to in subsection (b)(1) which is entered into during any calendar year after 1996, the dollar amount referred to paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any dollar amount after being increased under the preceding sentence is not a multiple of $100, such dollar amount shall be rounded to the nearest multiple of $100.

''(d) APPLICATION OF RATE SCHEDULE.—Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

''(e) TREATMENT OF AMOUNTS REFUNDED TO BENEFICIARY ON CANCELLATION.—No gain or loss shall be recognized to a beneficiary described in subsection (b)(3) of any qualified funeral trust by reason of any payment from such trust to such beneficiary by reason of cancellation of a contract referred to in subsection (b)(1). If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such beneficiary shall be the same as the trust's basis in such property immediately before the payment.

''(f) SIMPLIFIED REPORTING.—The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

''Sec. 684. Treatment of funeral trusts.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

PART II—ESTATE AND GIFT TAX PROVISIONS

SEC. 14611. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

''(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.''

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

''(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 14612. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

''SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

''(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

''(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

''(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

''(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

''(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

''(1) IN GENERAL.—For purposes of—

''(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

''(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

''(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

''(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

''(3) MARITAL AND SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(2)) to file any gift tax return for such year with respect to transfers to such donee.

''(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

''(e) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 676 as owned by the decedent shall be treated as a transfer made directly by the decedent.''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking ''gifts'' in the item relating to section 2035 and inserting ''certain gifts''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 14613. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end the following new clause:

''(vi) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse.''

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking ''and (iv)'' and inserting ''(iv), and (vi)''.

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end the following new subsection:

''(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 14614. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 14615. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

''(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

''(A) the notice of election, as filed, does not contain all required information, or

''(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 14616. UNIFIED CREDIT OF DECEDENT INCREASED BY UNIFIED CREDIT OF SPOUSE USED ON SPLIT GIFT INCLUDED IN DECEDENT'S GROSS ESTATE.

(a) IN GENERAL.—Section 2010 (relating to unified credit against estate tax) is amended by adding at the end the following new subsection:

''(d) TREATMENT OF UNIFIED CREDIT USED BY SPOUSE ON SPLIT-GIFT INCLUDED IN DECEDENT'S GROSS ESTATE.—If—

''(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent's spouse, and

''(2) the amount of such gift is includible in the gross estate of the decedent by reason of section 2035, 2036, 2037, or 2038,

the amount of the credit allowable by subsection (a) to the estate of the decedent shall be increased by the amount of the unified credit allowed against the tax imposed by section 2501 on the amount of such gift considered under section 2513 as made by such spouse.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gifts made after the date of the enactment of this Act.

SEC. 14617. REFORMATION OF DEFECTIVE BEQUESTS, ETC., TO SPOUSE OF DECEDENT.

(a) IN GENERAL.—Subsection (b) of section 2056 (relating to bequests, etc., to surviving spouse) is amended by adding at the end the following new paragraph:

''(11) REFORMATIONS PERMITTED.—

''(A) IN GENERAL.—In the case of any interest in property with respect to which a deduction would be allowable under subsection (a) but for a provision of this subsection, if—

''(i) the surviving spouse is entitled to all of the income from the property for life,

''(ii) no person other than such spouse is entitled to any distribution of such property during such spouse's life, and

''(iii) there is a change of a governing instrument (by reformation, amendment, construction, or otherwise) as of the applicable date which results in the satisfaction of the requirements of such provision as of the date of the decedent's death,

the determination of whether such deduction is allowable shall be made as of the applicable date.

''(B) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.—Clauses (i) and (ii) of subparagraph (A) shall not apply to any interest if, not later than the date described in subparagraph (C)(i), a judicial proceeding is commenced to change such interest into an interest which satisfies the requirements of the provision by reason of which (but for this paragraph) a deduction would not be allowable under subsection (a) for such interest.

''(C) APPLICABLE DATE.—For purposes of subparagraph (A), the term 'applicable date' means—

''(i) the last date (including extensions) for filing the return of tax imposed by this chapter, or

''(ii) if a judicial proceeding is commenced to comply with such provision, the time when the changes pursuant to such proceeding are made.

''(D) SPECIAL RULE.—If the change referred to in subparagraph (A)(iii) is to qualify the passage of the interest under paragraph (7), subparagraph (A) shall apply only if the election under subparagraph (B) thereof is made.

''(E) STATUTE OF LIMITATIONS.—If a judicial proceeding described in subparagraph (C)(ii) is commenced with respect to any interest, the period for assessing any deficiency of tax attributable to such interest shall not expire before the date 1 year after the date on

which the Secretary is notified that such provision has been complied with or that such proceeding has been terminated.''

(b) COMPARABLE RULE FOR GIFT TAX.—Section 2523 (relating to gift to spouse) is amended by adding at the end the following new subsection:

''(j) REFORMATIONS PERMITTED.—Rules similar to the rules of section 2056(b)(11) shall apply for purposes of this section.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after the date of the enactment of this Act.

SEC. 14618. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end the following new subsection:

''(f) VALUATION OF GIFTS.—If—

''(1) the time has expired within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), and

''(2) the value of such gift is shown on the return for such preceding calendar period or is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such gift,

the value of such gift shall, for purposes of computing the tax under this chapter, be the value of such gift as finally determined for purposes of chapter 12.''

(b) MODIFICATION OF APPLICATION OF STATUTE OF LIMITATIONS.—Paragraph (9) of section 6501(c) is amended to read as follows:

''(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item. The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a).''

(c) DECLARATORY JUDGMENT PROCEDURE FOR DETERMINING VALUE OF GIFT.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by inserting after section 7476 the following new section:

''SEC. 7477. DECLARATORY JUDGMENTS RELATING TO VALUE OF CERTAIN GIFTS.

''(a) CREATION OF REMEDY.—In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(b) LIMITATIONS.—

''(1) PETITIONER.—A pleading may be filed under this section only by the donor.

''(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

''(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.''

(2) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 7476 the following new item:

''Sec. 7477. Declaratory judgments relating to value of certain gifts.''

(d) CONFORMING AMENDMENT.—Subsection (c) of section 2504 is amended by striking '', and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar period''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to gifts made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 14619. CLARIFICATIONS RELATING TO DISCLAIMERS.

(a) PARTIAL TRANSFER-TYPE DISCLAIMERS PERMITTED.—Paragraph (3) of section 2518(c) (relating to certain transfers treated as disclaimers) is amended by inserting ''(or an undivided portion of such interest)'' after ''entire interest in the property''.

(b) RETENTION OF INTEREST BY DECEDENT'S SPOUSE PERMITTED IN TRANSFER-TYPE DISCLAIMERS.—Paragraph (3) of section 2518(c) is amended by adding at the end the following new flush sentence:

''For purposes of the preceding sentence, a written transfer by the spouse of the decedent of property to a trust shall not fail to be treated as a transfer of such spouse's interest in such property by reason of such spouse having an interest in such trust.''

(c) DISCLAIMERS ARE EFFECTIVE FOR INCOME TAX PURPOSES.—Subsection (a) of section 2518 is amended by inserting ''and subtitle A'' after ''this subtitle'' each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers creating an interest in the person disclaiming, and disclaimers, made after the date of the enactment of this Act.

SEC. 14620. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES.

(a) IN GENERAL.—Subparagraph (C) of section 2056(b)(7) is amended by inserting ''(or, in the case of an interest in an annuity arising under the community property laws of a State, included in the gross estate of the decedent under section 2033)'' after ''section 2039''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 14621. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 2056A (defining qualified domestic trust) is amended by adding at the end the following new paragraph:

''(3) TRUST.—To the extent provided in regulations prescribed by the Secretary, the term 'trust' includes other arrangements which have substantially the same effect as a trust.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 14622. AUTHORITY TO WAIVE REQUIREMENT OF UNITED STATES TRUSTEE FOR QUALIFIED DOMESTIC TRUSTS.

(a) IN GENERAL.—Subparagraph (A) of section 2056A(a)(1) is amended by inserting ''except as provided in regulations prescribed by the Secretary,'' before ''requires''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

PART III—GENERATION-SKIPPING TAX PROVISIONS

SEC. 14631. SEVERING OF TRUSTS HOLDING PROPERTY HAVING AN INCLUSION RATIO OF GREATER THAN ZERO.

(a) IN GENERAL.—Subsection (a) of section 2642 (relating to inclusion ratio) is amended by adding at the end the following new paragraph:

''(3) SEVERING OF TRUSTS HOLDING PROPERTY HAVING AN INCLUSION RATIO OF GREATER THAN ZERO.—

''(A) IN GENERAL.—If a trust holding property having an inclusion ratio of greater than zero is severed in a qualified severance, at the election of the trustee of such trust, the trusts resulting from such severance shall be treated as separate trusts for purposes of this chapter.

''(B) QUALIFIED SEVERANCE.—For purposes of subparagraph (A), the term 'qualified severance' means the creation of 2 trusts from a single trust if each property held by the single trust was divided between the 2 created trusts such that one trust received an interest in each such property equal to the applicable fraction of the single trust. Such term includes any other severance permitted under regulations prescribed by the Secretary.

''(C) ELECTION.—The election under this paragraph shall be made at the time prescribed by the Secretary. Such an election, once made, shall be irrevocable.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to severances after the date of the enactment of this Act.

SEC. 14632. CLARIFICATION OF WHO IS TRANSFEROR WHERE SUBSEQUENT GIFT BY REASON OF POWER OF APPOINTMENT.

(a) IN GENERAL.—Paragraph (1) of section 2652(a) (defining transferor) is amended by adding at the end the following new sentence: ''A transferor described in subparagraph (A) shall not be treated as the transferor of any property if another individual is treated as the transferor of such property under subparagraph (B) by reason of the exercise, release, or lapse of a general power of appointment with respect to such property.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the exercise, release, or lapse of a general power of appointment after the date of the enactment of this Act.

SEC. 14633. TAXABLE TERMINATION NOT TO INCLUDE DIRECT SKIPS.

(a) IN GENERAL.—Paragraph (1) of section 2612(a) (defining taxable termination) is amended by adding at the end the following new flush sentence:

''Such term shall not include a direct skip.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to generation-skipping transfers (as defined in section 2611 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 14634. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

''(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

''(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

''(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),

such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

''(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant.''

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking ''section 2651(e)(2)'' and inserting ''section 2651(f)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after the date of the enactment of this Act.

Subtitle G—Excise Tax Simplification

PART I—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 14701. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking ''withdrawn from bonded premises on payment or determination of tax'' and inserting ''on which tax has been determined or paid''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14702. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking ''on the submission of'' and all that follows and inserting ''if there is such proof of exportation as the Secretary may by regulations require.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14703. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking ''shall be kept on the premises where the operations covered by the record are carried on and''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14704. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

''(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or''.

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

''(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material.''

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.'', and

(2) by striking ''or rendering unmerchantable'' in subsection (d) (as so redesignated) and inserting ''rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14705. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 5681 is amended by striking '', and every wholesale dealer in liquors,'' and by striking ''section 5115(a) or''.

(2) Subsection (c) of section 5681 is amended—

(A) by striking ''or wholesale liquor establishment, on which no sign required by section 5115(a) or'' and inserting ''on which no sign required by'', and

(B) by striking ''or wholesale liquor establishment, or who'' and inserting ''or who''.

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 14706. REFUND OF TAX ON WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking ''as unmerchantable''.

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking ''unmerchantable''.

(2) The section heading for section 5044 is amended by striking ''**unmerchantable**''.

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking ''unmerchantable''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14707. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking ''loganberries, currants, or gooseberries,'' and inserting ''any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14708. DOMESTICALLY PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

''(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

''(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

''(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

''(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

''(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14709. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

''(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14710. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking ''found to have been paid'' and all that follows and inserting ''paid on such beer if there is such proof of exportation as the Secretary may by regulations require.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14711. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end the following new section:

''SEC. 5418. BEER IMPORTED IN BULK.

''Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax.''

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end the following new item:

''Sec. 5418. Beer imported in bulk.'',000

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

PART II—CONSOLIDATION OF TAXES ON AVIATION GASOLINE

SEC. 14721. CONSOLIDATION OF TAXES ON AVIATION GASOLINE.

(a) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to imposition of tax on gasoline and diesel fuel) is amended by redesignating clause (ii) as clause (iii) and by striking clause (i) and inserting the following:

''(i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,

''(ii) in the case of aviation gasoline, 19.3 cents per gallon, and''.

(b) TERMINATION.—Subsection (d) of section 4081 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) AVIATION GASOLINE.—On and after January 1, 1996, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon.''

(c) REPEAL OF RETAIL LEVEL TAX.—

(1) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(2) Paragraph (3) of section 4041(c), as redesignated by paragraph (1), is amended by striking ''paragraphs (1) and (2)'' and inserting ''paragraph (1)''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 4041(k) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) Paragraph (1) of section 4081(d) is amended by striking ''each rate of tax specified in subsection (a)(2)(A)'' and inserting ''the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A)''.

(3) Sections 6421(f)(2)(A) and 9502(f)(1)(A) are each amended by striking ''section 4041(c)(4)'' and inserting ''section 4041(c)(2)''.

(4) Paragraph (2) of section 9502(b) is amended by striking ''14 cents'' and inserting ''15 cents''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of aviation gasoline on which tax was imposed under section 4081 of the Internal Revenue Code of 1986 before January 1, 1996, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 1 cent per gallon of such gasoline.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation gasoline on January 1, 1996, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1996.

(3) DEFINITIONS.—For purposes of this subsection:

(A) HELD BY A PERSON.—Gasoline shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN AIRCRAFT TANK.—No tax shall be imposed by paragraph (1) on aviation gasoline held in the tank of an aircraft.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation gasoline held on January 1, 1996, by any person if the aggregate amount of aviation gasoline held by such person on such date does not exceed 6,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—

(i) CORPORATIONS.—In the case of a controlled group, the 6,000 gallon amount in subparagraph (A) shall be apportioned among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group under common control where 1 or more of the members is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 14731. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: ''Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 14732. CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE UNDER RETAIL SALES TAX ON HEAVY TRUCKS.

(a) IN GENERAL.—Paragraph (2) of section 4052(c) (relating to certain combinations not treated as manufacture) is amended by striking ''or wood or metal floor'' and inserting ''wood or metal floor, or a power take-off and dump body''.

(b) REMOVAL OF FIFTH WHEEL.—Paragraph (1) of section 4052(c) is amended by inserting before the period ''or the removal of any coupling device (including any fifth wheel)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 14733. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.

(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

''(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State which is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection, and

''(2) the use of which is certified pursuant to regulations issued by the Secretary.''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 14734. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

Subtitle H—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 14801. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking ''(h)(6)'' each place it appears and inserting ''(h)(5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 14802. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end the following new sentence: ''For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 14803. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

''(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1995.

SEC. 14804. CLARIFICATION OF AUTHORITY TO WITHHOLD PUERTO RICO INCOME TAXES FROM SALARIES OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Subsection (c) of section 5517 of title 5, United States Code, is amended by striking ''or territory or possession'' and inserting '', territory, possession, or commonwealth''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART II—TAX COURT PROCEDURES

SEC. 14811. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: ''An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.''

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

''(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 14812. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

''(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.''

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

''(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) by the Internal Revenue Service for reasonable administrative costs only if the prevailing party files an application with the Internal Revenue Service for such costs before the 91st day after the date on which the final decision of the Internal Revenue Service as to the determination of the tax, interest, or penalty is mailed to such party.''

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking ''appeal to'' and inserting ''the filing of a petition for review with'', and

(2) by adding at the end the following new sentence: ''If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 14813. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking ''petition'' and inserting ''motion''.

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

SEC. 14814. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

''(i) the net worth limitation in clause (i) of such section shall apply to—

''(I) an estate but shall be determined as of the date of the decedent's death, and

''(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

''(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 14821. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

''(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

''(1) joint filing of Federal and State income tax returns,

''(2) single processing of such returns,

''(3) joint collection of taxes (other than Federal income taxes), and

''(4) such other provisions as may enhance joint tax administration.

''(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

''(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

''(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1).''

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7524. Cooperative agreements with State tax authorities.''

TITLE XV—PRESERVING, PROTECTING, AND STRENGTHENING MEDICARE

H.R. 2425 as passed the House of Representatives is hereby enacted into law.

TITLE XVI—TRANSFORMATION OF THE MEDICAID PROGRAM

SEC. 16000. SHORT TITLE.

This title may be cited as the ''Medicaid Transformation Act of 1995''.

SEC. 16001. TRANSFORMATION OF MEDICAID PROGRAM.

The Social Security Act is amended by adding at the end the following new title:

''TITLE XXI—MEDIGRANT PROGRAM FOR LOW-INCOME INDIVIDUALS AND FAMILIES

''TABLE OF CONTENTS OF TITLE

''SEC. 2100. PURPOSE; STATE MEDIGRANT PLANS.

''(a) PURPOSE.—The purpose of this title is to provide block grants to States to enable them to provide medical assistance to low-income individuals and families in a more effective, efficient, and responsive manner.

''(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 2122 of this title unless the State has submitted to the Secretary under part E a plan (in this title referred to as a 'MediGrant plan') that—

''(1) sets forth how the State intends to use the funds provided under this title to provide medical assistance to needy individuals and families consistent with the provisions of this title, and

''(2) is approved under such part.

''(c) CONTINUED APPROVAL.—An approved MediGrant plan shall continue in effect unless and until—

''(1) the State amends the plan under section 2152,

''(2) the State terminates participation under this title under section 2153, or

''(3) the Secretary finds substantial noncompliance of the plan with the requirements of this title under section 2154.

''(d) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under part C.

''PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

''SEC. 2101. DESCRIPTION OF STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.

''(a) DESCRIPTION.—A MediGrant plan shall include a description of the strategic objectives and performance goals the State has established for providing health care services to low-income populations under this title, including a general description of the manner in which the plan is designed to meet these objectives and goals.

''(b) CERTAIN OBJECTIVES AND GOALS REQUIRED.—A MediGrant plan shall include strategic objectives and performance goals relating to rates of childhood immunizations and reductions in infant mortality and morbidity.

''(c) CONSIDERATIONS.—In specifying these objectives and goals the State may consider factors such as the following:

''(1) The State's priorities with respect to such areas as providing assistance to low-income populations.

''(2) The State's priorities with respect to the general public health and the health status of individuals eligible for assistance under the MediGrant plan.

''(3) The State's financial resources, the particular economic conditions in the State, and relative adequacy of the health care infrastructure in different regions of the State.

''(d) PERFORMANCE MEASURES.—To the extent practicable—

''(1) one or more performance goals shall be established by the State for each strategic objective identified in the MediGrant plan; and

''(2) the MediGrant plan shall describe, how program performance will be—

''(A) measured through objective, independently verifiable means, and

''(B) compared against performance goals, in order to determine the State's performance under this title.

''(e) PERIOD COVERED.—

''(1) STRATEGIC OBJECTIVES.—The strategic objectives shall cover a period of not less than 5 years and shall be updated and revised at least every 3 years.

''(2) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.

''SEC. 2102. ANNUAL REPORTS.

''(a) IN GENERAL.—In the case of a State with a MediGrant plan that is in effect for part or all of a fiscal year, no later than March 31 following such fiscal year (or March 31, 1998, in the case of fiscal year 1996) the State shall prepare and submit to the Secretary and the Congress a report on program activities and performance under this title for such fiscal year.

''(b) CONTENTS.—Each annual report under this section for a fiscal year shall include the following:

''(1) EXPENDITURE AND BENEFICIARY SUMMARY.—

''(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), a summary of all expenditures under the MediGrant plan during the fiscal year (and during any portions of fiscal year 1996 during which the MediGrant plan was in effect under this title) as follows:

''(i) Aggregate medical assistance expenditures, disaggregated to the extent required to determine compliance with the set-aside requirements of subsections (a) through (c) section 2112 and to compute the case mix index under section 2121(d)(3).

''(ii) For each general category of eligible individuals (specified in subsection (c)(1), aggregate medical assistance expenditures and the total and average number of eligible individuals under the MediGrant plan.

''(iii) By each general category of eligible individuals, total expenditures for each of the categories of health care items and services (specified in subsection (c)(2)) which are covered under the MediGrant plan and provided on a fee-for-service basis.

''(iv) By each general category of eligible individuals, total expenditures for payments to capitated health care organizations (as defined in section 2114(c)(1)).

''(v) Total administrative expenditures.

''(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, a summary of—

''(i) all expenditures under the MediGrant plan consistent with the reporting format specified by the MediGrant Task Force under section 2106(d)(1), and

''(ii) the total and average number of eligible individuals under the MediGrant plan for each general category of eligible individuals.

''(2) UTILIZATION SUMMARY.—

''(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), summary statistics on the utilization of health care services under the MediGrant plan during the year (and during any portions of fiscal year 1996 during which the MediGrant plan was in effect under this title) as follows:

''(i) For each general category of eligible individuals and for each of the categories of health care items and services which are covered under the MediGrant plan and provided on a fee-for-service basis, the number and percentage of persons who received such a type of service or item during the period covered by the report.

''(ii) Summary of health care utilization data reported to the State by capitated health care organizations.

''(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, summary statistics on the utilization of health care services under the MediGrant plan consistent with the reporting format specified by the MediGrant Task Force under section 2106(d)(1).

''(3) ACHIEVEMENT OF PERFORMANCE GOALS.—With respect to each performance goal established under section 2101 and applicable to the year involved—

''(A) a brief description of the goal;

''(B) data on the actual performance with respect to the goal;

''(C) a review of the extent to which the goal was achieved, based on such data; and

''(D) where a performance goal has not been met—

''(i) why the goal was not met, and

''(ii) actions to be taken in response to such performance (including adjustments in performance goals or program activities for subsequent years).

''(4) PROGRAM EVALUATIONS.—A summary of the findings of evaluations under section 2103 completed during the fiscal year covered by the report.

''(5) FRAUD AND ABUSE AND QUALITY CONTROL ACTIVITIES.—A general description of the State's activities under part D to detect and deter fraud and abuse and to assure quality of services provided under the program.

''(6) PLAN ADMINISTRATION.—

''(A) A description of the administrative roles and responsibilities of entities in the State responsible for administration of this title.

''(B) Organizational charts for each entity in the State primarily responsible for activities under this title.

''(C) A brief description of each interstate compact (if any) the State has entered into with other States with respect to activities under this title.

''(D) General citations to the State statutes and administrative rules governing the State's activities under this title.

''(7) INPATIENT HOSPITAL PAYMENTS.—With respect to inpatient hospital services provided under the MediGrant plan on a fee-for-service basis, a description of the average amount paid per discharge in the fiscal year compared either to the average charge for such services or to the State's estimate of the average amount paid per discharge by commercial health insurers in the State.

''(c) DEFINITIONS.—In this section:

''(1) Each of the following is a general category of eligible individuals:

''(A) Children.

''(B) Blind or disabled adults under 65 years of age.

''(C) Persons 65 years of age or older.

''(D) Other adults.

''(2) The health care items and services described in each subparagraph of section 2171(a)(1) shall be considered a separate category of health care items and services.

"SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.

''(a) IN GENERAL.—During fiscal year 1998 and every third fiscal year thereafter, each State shall provide for an evaluation of the operation of its MediGrant plan under this title.

''(b) INDEPENDENT.—Each such evaluation with respect to an activity under the MediGrant plan shall be conducted by an entity that is neither responsible under State law for the submission of the State plan (or part thereof) nor responsible for administering (or supervising the administration of) the activity. If consistent with the previous sentence, such an entity may be a college or university, a State agency, a legislative branch agency in a State, or an independent contractor.

''(c) RESEARCH DESIGN.—Each such evaluation shall be conducted in accordance with a research design that is based on generally accepted models of survey design and sampling and statistical analysis.

"SEC. 2104. DESCRIPTION OF PROCESS FOR MEDIGRANT PLAN DEVELOPMENT.

''Each MediGrant plan shall include a description of the process under which the plan shall be developed and implemented in the State (consistent with section 2105).

"SEC. 2105. CONSULTATION IN MEDIGRANT PLAN DEVELOPMENT.

''(a) PUBLIC NOTICE PROCESS.—

''(1) IN GENERAL.—Before submitting a MediGrant plan or a plan amendment described in paragraph (3) to the Secretary under part E, a State shall provide—

''(A) public notice respecting the submittal of the proposed plan or amendment, including a general description of the plan or amendment;

''(B) a means for the public to inspect or obtain a copy (at reasonable charge) of the proposed plan or amendment; and

''(C) an opportunity for submittal and consideration of public comments on the proposed plan or amendment.

The previous sentence shall not apply to a revision of a MediGrant plan (or revision of an amendment to a plan) made by a State under section 2154(c)(1) or to a plan amendment withdrawal described in section 2152(c)(4).

''(2) CONTENTS OF NOTICE.—A notice under paragraph (1)(A) for a proposed plan or amendment shall include a description of—

''(A) the general purpose of the proposed plan or amendment (including applicable effective dates),

''(B) where the public may inspect the proposed plan or amendment,

''(C) how the public may obtain a copy of the proposed plan or amendment and the applicable charge (if any) for the copy, and

''(D) how the public may submit comments on the proposed plan or amendment, including any deadlines applicable to consideration of such comments.

''(3) AMENDMENTS DESCRIBED.—An amendment to a MediGrant plan described in this paragraph is an amendment which makes a material and substantial change in eligibility under the MediGrant plan or the benefits provided under the plan.

''(4) PUBLICATION.—Notices under this subsection may be published (as selected by the State) in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules.

''(5) COMPARABLE PROCESS.—A separate notice, or notices, shall not be required under this subsection for a State if notice of the MediGrant plan or an amendment to the plan will be provided under a process specified in State law that is substantially equivalent to the notice process specified in this subsection.

''(b) ADVISORY COMMITTEE.—

''(1) IN GENERAL.—Each State with a MediGrant plan shall establish and maintain an advisory committee.

''(2) CONSULTATION.—The State shall periodically consult with the advisory committee in the development, revision, and monitoring the performance of the MediGrant plan, including—

''(A) the development of strategic objectives and performance goals under section 2101,

''(B) the annual report under section 2102, and

''(C) the research design under section 2103(c).

''(3) GEOGRAPHIC DIVERSITY.—The composition of the advisory committee shall be chosen in a manner that assures some representation on the advisory committee of the different general geographic regions of the State. Nothing in the previous sentence shall be construed as requiring proportional representation of geographic areas in a State.

''(4) CONSTRUCTION.—Nothing in this title shall be construed as preventing a State from establishing more than one advisory committee, including specialized advisory committees that represent the interests of specific population groups, provider groups, or geographic areas.

"SEC. 2106. MEDIGRANT TASK FORCE.

''(a) IN GENERAL.—The Secretary shall provide for the establishment of a MediGrant Task Force (in this section referred to as the 'Task Force').

''(b) COMPOSITION.—The Task Force shall consist of 6 members appointed by the chair of the National Governors Association and 6 members appointed by the vice chair of the National Governors Association.

''(c) ADVISORY GROUP FOR TASK FORCE.—The Secretary shall provide for the establishment of an advisory group to assist the Task Force in carrying out its duties under this section, consisting of one representative appointed by each of the following associations:

''(1) National Committee for Quality Assurance.

''(2) Joint Commission for the Accreditation of Healthcare Organizations.

''(3) Group Health Association of America.

''(4) American Managed Care and Review Association.

''(5) Association of State and Territorial Health Officers.

''(6) American Medical Association.

''(7) American Hospital Association.

''(8) American Dental Association.

''(9) American College of Gerontology.

''(10) American Health Care Association.

''(11) An association identified by the Secretary as representing the interests of disabled individuals.

''(12) An association identified by the Secretary as representing the interests of children.

''(13) An association identified by the Secretary as representing the interests of the elderly.

''(14) An association identified by the Secretary as representing the interests of mentally ill individuals.

Any reference in this subsection to a particular group shall be deemed a reference to any successor to such group.

''(d) DUTIES.—

''(1) FORMAT FOR EXPENDITURE AND UTILIZATION SUMMARIES.—The Task Force shall specify, by not later than December 31, 1996, the format of expenditure summaries and utilization summaries required under section 2102. Such format may provide for the reporting of different information from that required under section 2102(a), but shall include the reporting of at least the information described in section 2102(b)(1)(A)(i).

''(2) MODELS AND SUGGESTIONS.—The Task Force shall study and report to Congress and the States, by not later than April 1, 1997, recommendations on the following:

''(A) Recommended models for strategic objectives and performance goals for consideration by States in the development of such objectives and goals under section 2102, including alternative models for each of the objectives and goals described in section 2101(b).

''(B) For each suggested model for a strategic objective or performance goal suggested methodologies for States to consider in measuring and verifying the objective or goal.

''(C) An assessment of the potential usefulness to States of quality assurance safeguards, utilization data sets, and accreditation programs that are used or under development in the private sector.

''(D) Recommended designs and evaluation methodologies for consideration by States in providing for independent evaluations under section 2103.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to adopt any of the strategic objectives or performance goals suggested under paragraph (2).

''(e) ADMINISTRATIVE ASSISTANCE.—Administrative support for the Task Force shall be provided by the Agency for Health Care Policy and Research (or, in the absence of such Agency, the Secretary).

''PART B—ELIGIBILITY, BENEFITS, AND SETASIDES

"SEC. 2111. GENERAL DESCRIPTION OF ELIGIBILITY AND BENEFITS.

''(a) IN GENERAL.—Each MediGrant plan shall include a description (consistent with this title) of the following:

''(1) ELIGIBLE POPULATION.—The population eligible for medical assistance under the plan, including—

''(A) any limitations on categories of such individuals;

''(B) any limitations as to the duration of eligibility;

''(C) any eligibility standards relating to age, income (including any standards relating to spenddowns), residency, resources, disability status, immigration status, or employment status of individuals;

''(D) methods of establishing (and continuing) eligibility and enrollment (including the methodology for computing family income);

''(E) the eligibility standards in the plan that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of the community spouse; and

''(F) any other standards relating to eligibility for medical assistance under the plan.

''(2) SCOPE OF ASSISTANCE.—The amount, duration, and scope of health care services and items covered under the plan, including differences among different eligible population groups.

''(3) DELIVERY METHOD.—The State's approach to delivery of medical assistance, including a general description of—

''(A) the use (or intended use) of vouchers, fee-for-service, or managed care arrangements (such as capitated health care plans, case management, and case coordination), and

''(B) utilization control systems.

''(4) FEE-FOR-SERVICE BENEFITS.—To the extent that medical assistance is furnished on a fee-for-service basis—

''(A) how the State determines the qualifications of health care providers eligible to provide such assistance, and

''(B) how the State determines rates of reimbursement for providing such assistance.

''(5) COST-SHARING.—Beneficiary cost-sharing (if any), including variations in such cost-sharing by population group or type of service and financial responsibilities of parents of recipients under 21 years of age and the spouses of recipients.

''(6) UTILIZATION INCENTIVES.—Incentives or requirements (if any) to encourage the appropriate utilization of services.

''(7) TREATMENT OF HEALTH CENTERS.—

''(A) IN GENERAL.—In the case of a State in which one or more health centers is located, the MediGrant plan shall include a description of—

''(i) what provision (if any) has been made for payment for items and services furnished by health centers, and

''(ii) the manner in which medical assistance for low-income eligible individuals who received health care services at health centers on or before the date of the enactment of this title may be provided, as determined by the State in consultation with the health centers in the State.

''(B) HEALTH CENTER DEFINED.—For purposes of subparagraph (A), the term 'health center' means an entity that—

''(i) is receiving a grant under section 329, 330, 340, or 340A of the Public Health Service Act; or

''(ii) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, was determined by the Secretary to meet the requirements to receive such a grant.

''(8) SUPPORT FOR CERTAIN HOSPITALS.—

''(A) IN GENERAL.—With respect to hospitals described in subparagraph (B) located in the State, the MediGrant plan shall includes a description—

''(i) of the extent to which provisions have been made for expenditures for items and services furnished by such hospitals and covered under the plan, and

''(ii) for individuals who (I) are enrolled for benefits for covered services under the MediGrant plan and (II) were previously receiving benefits for such services under the medicaid program by or through such hospitals, where or how they will receive benefits for such services under the MediGrant plan if the MediGrant plan does not permit such individuals to obtain benefits for those services by or through such hospitals.

''(B) HOSPITALS DESCRIBED.—For purposes of subparagraph (A), a hospital described in this subparagraph is a subsection (d) hospital (as defined in section 1886(d)(1)(B)) that is described in clauses (i) and (ii) of section 340B(a)(4)(L) of the Public Health Service Act.

''(b) IMMUNIZATIONS FOR CHILDREN.—The MediGrant plan shall provide medical assistance for immunizations for children eligible for any medical assistance under the MediGrant plan, in accordance with a schedule for immunizations established by the Health Department of the State in consultation with the individuals and entities in the State responsible for the administration of the plan.

''(c) EQUAL PAYMENT RATES FOR RURAL PROVIDERS.—A State with a MediGrant plan shall establish payment rates for all services of rural providers that are comparable to the payment rates established for like services of such type of providers not in rural areas; except that a State may provide for incentive payments to attract and retain providers to medically underserved areas.

''(d) PREEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—

''(1) a MediGrant plan may not deny or exclude coverage of any item or service for an eligible individual for benefits under the MediGrant plan for such item or service on the basis of a preexisting condition; and

''(2) if a State contracts or makes other arrangements (through the eligible individual or through another entity) with a capitated health care organization, insurer, or other entity, for the provision of items or services to eligible individuals under the MediGrant plan and the State permits such organization, insurer, or other entity to exclude coverage of a covered item or service on the basis of a preexisting condition, the State shall provide, through its MediGrant plan, for such coverage (through direct payment or otherwise) for any such covered item or service denied or excluded on the basis of a preexisting condition.

''(e) FAMILY RESPONSIBILITY.—A MediGrant plan may not require an adult child of moderate means (as determined by the Secretary) to contribute to the cost of covered nursing facility services and other long-term care services for the child's parent under the plan.

"SEC. 2112. SET-ASIDES OF FUNDS FOR POPULATION GROUPS.

''(a) FOR TARGETED LOW-INCOME FAMILIES.—

''(1) IN GENERAL.—Subject to subsection (e), a MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for targeted low-income families (as defined in paragraph (3)) for a fiscal year shall be not less than the minimum low-income-family percentage specified in paragraph (2) of the total funds expended under the plan for all medical assistance for the fiscal year.

''(2) MINIMUM LOW-INCOME-FAMILY PERCENTAGE.—The minimum low-income-family percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which were attributable to expenditures for medical assistance for mandated benefits (as defined in subsection (h)) furnished to individuals—

''(A) who (at the time of furnishing the assistance) were under 65 years of age,

''(B) whose coverage (at such time) under a State plan under title XIX was required under Federal law, and

''(C) whose eligibility for such coverage (at such time) was not on a basis directly related to disability status (including being blind).

''(3) TARGETED LOW-INCOME FAMILY DEFINED.—In this subsection, the term 'targeted low-income family' means a family (which may be an individual)—

''(A) which includes a child or a pregnant woman, and

''(B) the income of which does not exceed 185 percent of the poverty line applicable to a family of the size involved.

''(b) FOR LOW-INCOME ELDERLY.—

''(1) SET-ASIDES.—Subject to subsection (e)—

''(A) GENERAL SET-ASIDE.—A MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals 65 years of age or older for a fiscal year shall be not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.

''(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The MediGrant plan shall provide priority for such making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).

''(2) MINIMUM PERCENTAGES.—

''(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

''(i) whose eligibility for such assistance was based on their being 65 years of age or older; and

''(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.

''(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.

''(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—In this subsection, the term 'targeted low-income elderly individual' means an individual who is 65 years of age or older and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

''(c) FOR LOW-INCOME DISABLED PERSONS.—

''(1) IN GENERAL.—Subject to subsection (e), a MediGrant plan shall provide that the percentage of funds expended under the plan for medical assistance for eligible low-income individuals who are under 65 years of age and are eligible for such assistance on the basis of a disability (including being blind) for a fiscal year is not less than the minimum low-income-disabled percentage specified in paragraph (2) of the total funds expended under the plan for medical assistance for the fiscal year.

''(2) MINIMUM LOW-INCOME-DISABLED PERCENTAGE.—The minimum low-income-disabled percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which was attributable to expenditures for

medical assistance for mandated benefits furnished to individuals—

''(A) whose coverage (at such time) under a State plan under title XIX was required under Federal law, and

''(B) whose coverage (at such time) was on a basis directly related to disability status (including being blind).

''(d) USE OF RESIDUAL FUNDS.—

''(1) IN GENERAL.—Subject to limitations on payment under section 2123, any funds not required to be expended under the set-asides under the previous subsections may be expended under the MediGrant plan for any of the following:

''(A) ADDITIONAL MEDICAL ASSISTANCE.—Medical assistance for eligible low-income individuals (as defined in section 2171(b)), in addition to any medical assistance made available under a previous subsection.

''(B) MEDICALLY-RELATED SERVICES.—Payment for medically-related services (as defined in paragraph (2)).

''(C) ADMINISTRATION.—Payment for the administration of the MediGrant plan.

''(2) MEDICALLY-RELATED SERVICES DEFINED.—In this title, the term 'medically-related services' means services reasonably related to, or in direct support of, the State's attainment of one or more of the strategic objectives and performance goals established under section 2101, but does not include items and services included on the list under section 2171(a)(1) (relating to the definition of medical assistance).

''(e) EXCEPTIONS TO MINIMUM SET-ASIDES.—

''(1) ALTERNATIVE MINIMUM SET-ASIDES.—

''(A) IN GENERAL.—A State may provide in its MediGrant plan (through an amendment to the plan) for a lower dollar amount of expenditures than the minimum amounts specified in any (or all) of paragraphs (2) of subsections (a), (b), and (c) if State determines (and certifies to the Secretary) that—

''(i) the health care needs of the low-income populations described in paragraph (1) of the respective subsection who are eligible for medical assistance under the plan during the previous fiscal year (or medicare premium assistance needs described in subsection (b)(1)(B)) can be reasonably met without the expenditure of the amounts otherwise required to be expended, and

''(ii) the performance goals established under section 2101 relating to the respective population can reasonably be met with such lower amount of funds expended.

''(B) PERIOD OF APPLICATION.—The determination and certification under subparagraph (A) shall be made for such period as a State may request, but may not be made for a period of more than 3 consecutive Federal fiscal years (beginning with the first fiscal year for which the lower amount is sought). A new determination and certification must be made under such paragraph for any subsequent period.

''(C) NO EXCEPTION PERMITTED BEFORE FISCAL YEAR 1998.—This paragraph may not apply with respect to a State for a fiscal year before fiscal year 1998.

''(2) INDEPENDENT CERTIFICATION OF COMPLIANCE WITH GOALS.—

''(A) IN GENERAL.—For purposes of section 2151(c), a MediGrant plan shall not be considered to be in substantial violation of the requirements of this section if the amount of actual State expenditures specified in any (or all) of paragraphs (1) of subsections (a), (b), and (c) is lower than the minimum amounts specified in any (or all) of paragraphs (2) of subsections (a), (b), and (c) if an independent actuary determines and certifies to the State that the MediGrant plan is reasonably designed to result in a level of expenditures which is consistent with the requirements of such subsections.

''(B) LIMIT ON VARIATION.—Subparagraph (A) shall not apply in the case of a MediGrant plan for which the actual State expenditures described in any (or all) of paragraphs (1) of subsections (a), (b), and (c) are less than 95 percent of the expenditures which would be made if the amount of State expenditures specified in any (or all) of such paragraphs was equal to the applicable minimum amount specified in any (or all) of paragraphs (2) of subsections (a), (b), and (c).

''(3) TREATMENT OF STATES WITH NO OPTIONAL BENEFITS.—In the case of a State for which all expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 were expenditures for medical assistance for mandated benefits, '75 percent' shall be substituted for '85 percent' each place it appears in paragraphs (2) of subsections (a), (b), and (c).

''(f) COMPUTATIONS.—

''(1) MINIMUM PERCENTAGES.—States shall calculate the minimum percentages under subsections (a)(2), (b)(2), and (c)(2) in a reasonable manner consistent with reports submitted to the Secretary for the fiscal years involved.

''(2) EXCLUSION OF PAYMENTS FOR CERTAIN ALIENS.—For purposes of this section, medical assistance attributable to the exception provided under section 1903(v)(2) shall not be considered to be expenditures for medical assistance.

''(g) BENEFITS INCLUDED FOR PURPOSES OF COMPUTING SET-ASIDES.—In this section, the term 'mandated benefits'—

''(1) means medical assistance for items and services described in section 1905(a) to the extent such assistance with respect to such items and services was required to be provided under title XIX,

''(2) includes medical assistance for medicare cost-sharing only to the extent such assistance was required to be provided under section 1902(a)(10)(E), and

''(3) does not include medical assistance attributable to disproportionate share payment adjustments described in section 1923.

''SEC. 2113. PREMIUMS AND COST-SHARING.

''(a) IN GENERAL.—Subject to subsection (b), if any charges are imposed under the MediGrant plan for cost-sharing (as defined in subsection (d)), such cost-sharing shall be pursuant to a public cost-sharing schedule.

''(b) LIMITATION ON PREMIUM AND CERTAIN COST-SHARING FOR LOW-INCOME FAMILIES INCLUDING CHILDREN OR PREGNANT WOMEN.—

''(1) IN GENERAL.—In the case of a family described in paragraph (2)—

''(A) the plan shall not impose any premium, and

''(B) the plan shall not (except as provided in subsection (c)(1)) impose any cost-sharing with respect to primary and preventive care services (as defined by the State) covered under the MediGrant plan for children or pregnant women unless such cost-sharing is nominal in nature.

''(2) FAMILY DESCRIBED.—A family described in this paragraph is a family (which may be an individual) which—

''(A) includes a child or a pregnant woman,

''(B) is made eligible for medical assistance under the MediGrant plan, and

''(C) the income of which does not exceed 100 percent of the poverty line applicable to a family of the size involved.

''(c) CERTAIN COST-SHARING PERMITTED.—Nothing in this section shall be construed as preventing a MediGrant plan (consistent with subsection (b))—

''(1) from imposing cost-sharing to discourage the inappropriate use of emergency medical services (delivered through a hospital emergency room, a medical transportation provider, or otherwise);

''(2) from imposing premiums and cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care;

''(3) from scaling cost-sharing in a manner that reflects economic factors, employment status, and family size;

''(4) from scaling cost-sharing based on the availability to the individual or family of other health insurance coverage; or

''(5) from scaling cost-sharing based on participation in employment training program, drug or alcohol abuse treatment, counseling programs, or other programs promoting personal responsibility.

''(d) COST-SHARING DEFINED.—In this section, the term 'cost-sharing' includes copayments, deductibles, coinsurance, and other charges for the provision of health care services.

''SEC. 2114. DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.

''(a) IN GENERAL.—If a State contracts (or intends to contract) with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the organization for providing or arranging for the provision of medical assistance under the MediGrant plan for a group of services (including at least inpatient hospital services and physicians' services), the plan shall include a description of the following:

''(1) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—

''(A) to analyze and project health care expenditures and utilization for individuals enrolled (or to be enrolled) in such an organization under the MediGrant plan, and

''(B) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.

''(2) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications (including any accreditation, State licensure or certification, or provider network standards) required by the State for participation of capitated health care organizations under the MediGrant plan.

''(3) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into contracts with capitated health care organizations, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

''(b) PUBLIC NOTICE AND COMMENT.—Under the MediGrant plan the State shall provide a process for providing, before the beginning of each contract year—

''(1) public notice of—

''(A) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and

''(B)(i) the information described under subsection (a)(1) with respect to capitation payments for the contract year involved or (ii) the amounts of the capitation payments the State expects to make for the contract year involved,

unless such information is designated as proprietary and not subject to public disclosure under State law; and

''(2) an opportunity for receiving public comment on the amounts and information for which notice is provided under paragraph (1).

''(c) DEFINITIONS.—In this title:

''(1) CAPITATED HEALTH CARE ORGANIZATION.—The term 'capitated health care organization' means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including at least inpatient hospital services and physicians' services.

''(2) CAPITATION PAYMENT.—The term 'capitation payment' means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity's provision (or arranging for the provision) of a group of items and services (including at least inpatient hospital services and physicians' services).

"SEC. 2115. PREVENTING SPOUSAL IMPOVERISHMENT.

''(a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

''(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.

''(2) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

''(A) the determination of what constitutes income or resources, or

''(B) the methodology and standards for determining and evaluating income and resources.

''(3) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

''(b) RULES FOR TREATMENT OF INCOME.—

''(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

''(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse for purposes of the post-eligibility income determination described in subsection (d), except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

''(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

''(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

''(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

''(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

''(B) TRUST PROPERTY.—In the case of a trust—

''(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title, and

''(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

''(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

''(II) if payment of income is made to both the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

''(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

''(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), one-half of the income shall be considered to be available to the institutionalized spouse and one-half to the community spouse.

''(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

''(c) RULES FOR TREATMENT OF RESOURCES.—

''(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—

''(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of the first continuous period of institutionalization of the institutionalized spouse)—

''(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest, and

''(ii) a spousal share which is equal to ½ of such total value.

''(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of the first continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse will have a right to a fair hearing under subsection (e)(2).

''(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for medical assistance under this title, regardless of any State laws relating to community property or the division of marital property—

''(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

''(B) resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds the amount computed under subsection (f)(2)(A) (as of the time of application for medical assistance).

''(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

''(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse;

''(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment; or

''(C) the State determines that denial of eligibility would work an undue hardship.

''(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR MEDICAL ASSISTANCE ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for medical assistance under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

''(5) RESOURCES DEFINED.—In this section, the term 'resources' does not include—

''(A) resources excluded under subsection (a) or (d) of section 1613, and

''(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

''(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

''(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined or redetermined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

''(A) A personal needs allowance (described in paragraph (6)(A)), in an amount not less than the amount specified in paragraph (6)(C).

''(B) A community spouse monthly income allowance (as defined in paragraph (2)), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of) the community spouse.

''(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (3)(A)(i) exceeds the amount of the monthly income of that family member.

''(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse (as provided under paragraph (7)).

In subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

''(2) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—In this section (except as provided in paragraph (5)), the 'community spouse monthly income allowance' for a community spouse is an amount by which—

''(A) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (3)) for the spouse, exceeds

''(B) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

''(3) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

''(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (B), is equal to or exceeds—

''(i) 150 percent of 1/12 of the income official poverty line (defined by the Office of Management and Budget and revised annually in accordance with section 673(2)) for a family unit of 2 members; plus

''(ii) an excess shelter allowance (as defined in paragraph (4)).

A revision of the official poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

''(B) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

''(4) EXCESS SHELTER ALLOWANCE DEFINED.—In paragraph (3)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

''(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence, and

''(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (3)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.

''(5) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

''(6) PERSONAL NEEDS ALLOWANCE.—

''(A) IN GENERAL.—The State MediGrant plan must provide that, in the case of an institutionalized individual or couple described in subparagraph (B), in determining the amount of the individual's or couple's income to be applied monthly to payment for the cost of care in an institution, there shall be deducted from the monthly income (in addition to other allowances otherwise provided under the plan) a monthly personal needs allowance—

''(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution, and

''(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in subparagraph (C).

''(B) INSTITUTIONALIZED INDIVIDUAL OR COUPLE DEFINED.—In this paragraph, the term 'institutionalized individual or couple' means an individual or married couple—

''(i) who is an inpatient (or who are inpatients) in a medical institution or nursing facility for which payments are made under this title throughout a month, and

''(ii) who is or are determined to be eligible for medical assistance under the State MediGrant plan.

''(C) MINIMUM ALLOWANCE.—The minimum monthly personal needs allowance described in this subparagraph is $40 for an institutionalized individual and $80 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).

''(7) TREATMENT OF INCURRED EXPENSES.—With respect to the post-eligibility treatment of income under this section, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

''(A) medicare and other health insurance premiums, deductibles, or coinsurance, and

''(B) necessary medical or remedial care recognized under State law but not covered under the State MediGrant plan under this title, subject to reasonable limits the State may establish on the amount of these expenses.

''(e) NOTICE AND HEARING.—

''(1) NOTICE.—Upon—

''(A) a determination of eligibility for medical assistance of an institutionalized spouse, or

''(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse,

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a hearing under the MediGrant plan respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

''(2) RESULTS OF HEARING.—

''(A) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes in a hearing under this subsection that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.

''(B) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes in such a hearing that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

''(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

''(1) IN GENERAL.—An institutionalized spouse may, without regard to any other provision of the MediGrant plan to contrary, transfer an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to (or for the sole benefit of) the community spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).

''(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DEFINED.—In paragraph (1), the 'community spouse resource allowance' for a community spouse is an amount (if any) by which—

''(A) the greatest of—

''(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State plan,

''(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g)),

''(iii) the amount established under subsection (e)(2); or

''(iv) the amount transferred under a court order under paragraph (3);

exceeds

''(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

''(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

''(h) DEFINITIONS.—In this section:

''(1) The term 'institutionalized spouse' means an individual—

''(A)(i) who is in a medical institution or nursing facility, or

''(ii) at the option of the State (I) who would be eligible under the MediGrant plan under this title if they were in a medical institution, (II) with respect to whom there has been a determination that but for the provision of home or community-based services they would require the level of care provided in a hospital, nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the plan, and (III) who will receive home or community-based services pursuant the plan, and

''(B) is married to a spouse who is not in a medical institution or nursing facility;

but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.

''(2) The term 'community spouse' means the spouse of an institutionalized spouse.

"SEC. 2116. CONSTRUCTION.

''(a) NO FEDERAL ENTITLEMENT.—Nothing in this title (including section 2112) shall be construed as creating an entitlement under Federal law in any individual or category of individuals for medical assistance under a MediGrant plan.

''(b) STATE FLEXIBILITY IN BENEFITS, PROVIDER PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SELECTION OF PROVIDERS.—Nothing in this title (other than section 2111(b)) shall be construed as requiring a State—

''(1) to provide medical assistance for any particular items or services;

''(2) subject to section 2111(c), to provide for any payments with respect to any specific health care providers or any level of payments for any services;

''(3) to provide for the same medical assistance in all geographical areas or political subdivisions of the State;

''(4) to provide that the medical assistance made available to any individual eligible for medical assistance must not be less in amount, duration, or scope than the medical assistance made available to any other such individual; or

''(5) to provide that any individual eligible for medical assistance with respect to an item or service may choose to obtain such

assistance from any institution, agency, or person qualified to provide the item or service.

''(c) STATE FLEXIBILITY WITH RESPECT TO MANAGED CARE.—Nothing in this title shall be construed—

''(1) to limit a State's ability to contract with, on a capitated basis or otherwise, health care plans or individual health care providers for the provision or arrangement of medical assistance;

''(2) to limit a State's ability to contract with health care plans or other entities for case management services or for coordination of medical assistance; or

''(3) to restrict a State from establishing capitation rates on the basis of competition among health care plans or negotiations between the State and one or more health care plans.

"SEC. 2117. LIMITATIONS ON CAUSES OF ACTION.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act (including section 1130A), no person (including an applicant, beneficiary, provider, or health plan) shall have a cause of action under Federal law against a State in relation to a State's compliance (or failure to comply) with the provisions of this title or of a MediGrant plan.

''(b) NO EFFECT ON STATE LAW.—Nothing in subsection (a) may be construed as affecting any actions brought under State law.

''PART C—PAYMENTS TO STATES

"SEC. 2121. ALLOTMENT OF FUNDS AMONG STATES.

''(a) ALLOTMENTS.—

''(1) COMPUTATION.—The Secretary shall provide for the computation of State obligation and outlay allotments in accordance with this section for each fiscal year beginning with fiscal year 1996.

''(2) LIMITATION ON OBLIGATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not enter into obligations with any State under this title for a fiscal year in excess of the obligation allotment for that State for the fiscal year under paragraph (4). The sum of such obligation allotments for all States in any fiscal year (excluding amounts carried over under subparagraph (B) and excluding changes in allotments effected under paragraph (4)(D)) shall not exceed the aggregate limit on new obligation authority specified in paragraph (3) for that fiscal year.

''(B) ADJUSTMENTS.—

''(i) CARRYOVER OF ALLOTMENT PERMITTED.—If the amount of obligations entered into under this part with a State for quarters in a fiscal year is less than the amount of the obligation allotment under this section to the State for the fiscal year, the amount of the difference shall be added to the amount of the State obligation allotment otherwise provided under this section for the succeeding fiscal year.

''(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS UNDER TITLE XIX IN FISCAL YEAR 1996.—The amount of the obligation allotment otherwise provided under this section for fiscal year 1996 for a State shall be reduced by the amount of the obligations entered into with respect to the State under section 1903(a) after the date of the enactment of this Act.

''(3) AGGREGATE LIMIT ON NEW OBLIGATION AUTHORITY.—

''(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (C), the 'aggregate limit on new obligation authority', for a fiscal year, is the pool amount under subsection (b) for the fiscal year, divided by the payout adjustment factor (described in subparagraph (B)) for the fiscal year.

''(B) PAYOUT ADJUSTMENT FACTOR.—For purposes of this subsection, the 'payout adjustment factor'—

''(i) for fiscal year 1996 is .950,

''(ii) for fiscal year 1997 is .986, and

''(iii) for a subsequent fiscal year is .998.

''(C) TRANSITIONAL ADJUSTMENT FOR PRE-ENACTMENT-OBLIGATION OUTLAYS.—In order to account for pre-enactment-obligation outlays described in paragraph (4)(C)(iv), in determining the aggregate limit on new obligation authority under subparagraph (A) for fiscal year 1996, the pool amount for such fiscal year is equal to—

''(i) the pool amount for such year, reduced by

''(ii) $24.624 billion.

''(4) OBLIGATION ALLOTMENTS.—

''(A) GENERAL RULE FOR 50 STATES AND THE DISTRICT OF COLUMBIA.—Except as provided in this paragraph, the 'obligation allotment' for any of the 50 States or the District of Columbia for a fiscal year (beginning with fiscal year 1997) is an amount that bears the same ratio to the outlay allotment under subsection (c)(2) for such State or District (not taking into account any adjustment due to an election under paragraph (4)) for the fiscal year as the ratio of—

''(i) the aggregate limit on new obligation authority (less the total of the obligation allotments under subparagraph (B)) for the fiscal year, to

''(ii) the pool amount (less the sum of the outlay allotments for the territories) for such fiscal year.

''(B) TERRITORIES.—The obligation allotment for each of the Commonwealths and territories for a fiscal year is the outlay allotment for such Commonwealth or territory (as determined under subsection (c)(5)) for the fiscal year divided by the payout adjustment factor for the fiscal year (as defined in paragraph (3)(B)).

''(C) TRANSITIONAL RULE FOR FISCAL YEAR 1996.—

''(i) IN GENERAL.—The obligation amount for fiscal year 1996 for any State (including the District, a Commonwealth, or territory) is determined according to the formula: A=(B-C)/D, where—

''(I) 'A' is the obligation amount for such State;

''(II) 'B' is the outlay allotment of such State for fiscal year 1996, as determined under subsection (c);

''(III) 'C' is the amount of the pre-enactment-obligation outlays (as established for such State under clause (ii)); and

''(IV) 'D' is the payout adjustment factor for such fiscal year (as defined in paragraph (3)(B)).

''(ii) PRE-ENACTMENT-OBLIGATION OUTLAY AMOUNTS.—Within 30 days after the date of the enactment of this title, the Secretary shall estimate (based on the best data available) and publish in the Federal Register the amount of the pre-enactment-obligation outlays (as defined in clause (iv)) for each State (including the District, Commonwealths, and territories). The total of such amounts shall equal the dollar amount specified in paragraph (3)(C)(ii).

''(iii) AGREEMENT.—The submission of a MediGrant plan by a State under this title is deemed to constitute the State's acceptance of the obligation allotment limitations under this subsection (including the formula for computing the amount of such obligation allotment).

''(iv) PRE-ENACTMENT-OBLIGATION OUTLAYS DEFINED.—In this subsection, the term 'pre-enactment-obligation outlays' means, for a State, the outlays of the Federal Government that result from obligations that have been incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States have not been made as of such date of enactment.

''(D) ADJUSTMENT TO REFLECT ADOPTION OF ALTERNATIVE GROWTH FORMULA.—Any State that has elected an alternative growth formula under subsection (c)(4) which increases or decreases the dollar amount of an outlay allotment for a fiscal year is deemed to have increased or decreased, respectively, its obligation amount for such fiscal year by the amount of such increase or decrease.

''(b) Pool of Available Funds.—

''(1) IN GENERAL.—For purposes of this section, the 'pool amount' under this subsection for—

''(A) fiscal year 1996 is $95,662,990,500;

''(B) fiscal year 1997 is $102,748,012,797;

''(C) fiscal year 1998 is $107,268,354,400;

''(D) fiscal year 1999 is $111,826,877,512;

''(E) fiscal year 2000 is 116,472,575,350;

''(F) fiscal year 2001 is $121,311,325,403;

''(G) fiscal year 2002 is $126,351,055,338; and

''(H) each subsequent fiscal year is the pool amount under this paragraph for the previous fiscal year increased by the lesser of 4.1546 percent or the annual percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending in June before the beginning of that subsequent fiscal year.

''(2) NATIONAL MEDIGRANT GROWTH PERCENTAGE.—For purposes of this section for a fiscal year (beginning with fiscal year 1997), the 'national MediGrant growth percentage' is the percentage by which—

''(A) the pool amount under paragraph (1) for the fiscal year, exceeds

''(B) such pool amount for the previous fiscal year.

''(c) STATE OUTLAY ALLOTMENTS.—

''(1) FISCAL YEAR 1996.—

''(A) IN GENERAL.—For each of the 50 States and the District of Columbia, the amount of the State outlay allotment under this subsection for fiscal year 1996 is, subject to paragraph (4), equal to—

''(i) the total amount of Federal expenditures made to the State under title XIX for the 4 quarters in fiscal year 1994, increased by

''(ii) the percentage by which (I) $95,529,490,500 (which represents the total amount of outlay allotments for such States and District for fiscal year 1996), exceeds (II) $83,213,431,458 (which represents Federal medicaid expenditures for such States and District for fiscal year 1994).

''(B) COMPUTATION OF EXPENDITURES.—The amount of Federal expenditures described in subparagraph (A)(i) shall be computed, using data reported on the HCFA Form 64 as of September 1, 1995, based on—

''(i) the amount reported on line 11, or

''(ii) on the amount reported on line 6 multiplied by the ratio of (I) the sum of the amounts so reported on line 11 of such Form for fiscal year 1994 for the 50 States and the District of Columbia, to (II) the sum of the amounts so reported on line 6 of such Form for fiscal year 1994 for such States and District,

whichever is greater.

''(C) LIMITATION ON ADJUSTMENT.—The amount computed under subparagraph (B) shall not be subject to adjustment (based on any subsequent disallowances or otherwise).

''(2) COMPUTATION OF STATE OUTLAY ALLOTMENTS.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the amount of the State outlay allotment under this subsection for one of the 50 States and the District of Columbia for a fiscal year (beginning with fiscal year 1997) is equal to the product of—

''(i) the needs-based amount determined under subparagraph (B) for the State for the fiscal year, and

''(ii) the scalar factor described in subparagraph (C) for the fiscal year.

''(B) NEEDS-BASED AMOUNT.—The needs-based amount under this subparagraph for a State for a fiscal year is equal to the product of—

''(i) the State's aggregate expenditure need for the fiscal year (as determined under subsection (d)), and

''(ii) the State's old Federal medical assistance percentage (as defined in section 2122(d)) for the previous fiscal year (or, in the case of fiscal year 1997, the Federal medical assistance percentage determined under section 1905(b) for fiscal year 1996).

''(C) SCALAR FACTOR.—The scalar factor under this subparagraph for a fiscal year is such proportion so that, when it is applied under subparagraph (A)(ii) for the fiscal year (taking into account the floors and ceilings under paragraph (3)), the total of the outlay allotments under this subsection for all the 50 States and the District of Columbia for the fiscal year (not taking into account any increase in an outlay allotment for a fiscal year attributable to the election of an alternative growth formula under paragraph (4)) is equal to the amount by which (i) the pool amount for the fiscal year (as determined under subsection (b)), exceeds (ii) the sum of the outlay allotments provided under paragraph (5) for the Commonwealths and territories for the fiscal year.

''(3) FLOORS AND CEILINGS.—

''(A) FLOORS.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the following:

''(i) FLOOR BASED ON PREVIOUS YEAR'S OUTLAY ALLOTMENT.—Subject to clause (ii)—

''(I) FISCAL YEAR 1997.—For fiscal year 1997, 103.5 percent of the amount of the State outlay allotment under this subsection for fiscal year 1996.

''(II) FISCAL YEAR 1998.—For fiscal year 1998, 103 percent of the amount of the State outlay allotment under this subsection for fiscal year 1997.

''(III) FISCAL YEAR 1999.—For fiscal year 1999, 102.5 percent of the amount of the State outlay allotment under this subsection for fiscal year 1998.

''(IV) SUBSEQUENT FISCAL YEARS.—For a fiscal year after 1999, 102 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year.

''(ii) FLOOR BASED ON OUTLAY ALLOTMENT GROWTH RATE IN FIRST YEAR.—Beginning with fiscal year 1998, in the case of a State for which the outlay allotment under this subsection for fiscal year 1997 exceeded its outlay allotment under this subsection for the previous fiscal year by—

''(I) more than 120 percent of the national MediGrant growth percentage for fiscal year 1997, 104 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year; or

''(II) less than 120 percent (but more than 75 percent) of the national MediGrant growth percentage for fiscal year 1997, 103 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year.

''(B) CEILINGS.—

''(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

''(I) the State outlay allotment under this subsection for the State for the preceding fiscal year, and

''(II) the factor specified in clause (ii) (or, if applicable, in clause (iii)) for the fiscal year.

''(ii) FACTOR DESCRIBED.—The factor described in this clause for—

''(I) fiscal year 1997 is 1.09, and

''(II) each subsequent fiscal year is 1.0533.

''(iii) SPECIAL RULE.—For a fiscal year after fiscal year 1997, in the case of a State (among the 50 States and the District of Columbia) that is one of the 10 States with the lowest Federal MediGrant spending per resident-in-poverty rates (as determined under clause (iv)) for the fiscal year, the factor that shall be applied under clause (i)(II) shall be the following:

''(I) For each of fiscal years 1998 and 1999, 1.06.

''(II) For fiscal year 2000, 1.060657.

''(III) For fiscal year 2001, 1.061488.

''(IV) For any subsequent fiscal year, 1.062319.

''(iv) DETERMINATION OF FEDERAL MEDIGRANT SPENDING PER RESIDENT-IN-POVERTY RATE.—For purposes of clause (iii), the 'Federal MediGrant spending per resident-in-poverty rate' for a State for a fiscal year is equal to—

''(I) the State's outlay allotment under this subsection for the previous fiscal year (determined without regard to paragraph (4)), divided by

''(II) the average annual number of residents of the State in poverty (as defined in subsection (d)(2)) with respect to the fiscal year.

''(4) ELECTION OF ALTERNATIVE GROWTH FORMULA.—

''(A) ELECTION.—In order to reduce variations in increases in outlay allotments over time, any of the 50 States or the District of Columbia may elect (by notice provided to the Secretary by not later than April 1, 1996) to adopt an alternative growth rate formula under this paragraph for the determination of the State's outlay allotment in fiscal year 1996 and for the increase in the amount of such allotment in subsequent fiscal years.

''(B) FORMULA.—The alternative growth formula under this paragraph may be any formula under which a portion of the State outlay allotment for fiscal year 1996 under paragraph (1) is deferred and applied to increase the amount of its outlay allotment for one or more subsequent fiscal years, so long as the total amount of such increases for all such subsequent fiscal years does not exceed the amount of the outlay allotment deferred from fiscal year 1996.

''(5) COMMONWEALTHS AND TERRITORIES.—The outlay allotment for each of the Commonwealths and territories for a fiscal year is the maximum amount that could have been certified under section 1108(c) with respect to the Commonwealth or territory for the fiscal year with respect to title XIX, if the national MediGrant growth percentage (as determined under subsection (b)(2)) for the fiscal year had been substituted (beginning with fiscal year 1997) for the percentage increase referred to in section 1108(c)(1)(B).

''(d) STATE AGGREGATE EXPENDITURE NEED DETERMINED.—

''(1) IN GENERAL.—For purposes of subsection (c), the 'State aggregate expenditure need' for a State for a fiscal year is equal to the product of the following 4 factors:

''(A) RESIDENTS IN POVERTY.—The average annual number of residents in poverty of the State with respect to the fiscal year (as determined under paragraph (2)).

''(B) CASE MIX INDEX.—The average of the case mix indexes for the State (as determined under paragraph (3)) for the 3 most recent fiscal years for which data are available, but in no case less than .9 or greater than 1.15.

''(C) INPUT COST INDEX.—The average of the input cost indexes for the State (as determined under paragraph (4)) for the 3 most recent fiscal years for which data are available.

''(D) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—The national average spending per resident in poverty (as determined under paragraph (5)).

''(2) RESIDENTS IN POVERTY.—In this section—

''(A) IN GENERAL.—The term 'average annual number of residents in poverty' means, with respect to a State and a fiscal year, the average annual number of residents in poverty (as defined in subparagraph (B)) in the State (based on data made generally available by the Bureau of the Census from the Current Population Survey) for the most recent 3-calendar-year period (ending before the fiscal year) for which such data are available.

''(B) RESIDENT IN POVERTY DEFINED.—The term 'resident in poverty' means an individual whose family income does not exceed the poverty threshold (as such terms are defined by the Office of Management and Budget and are generally interpreted and applied by the Bureau of the Census for the year involved).

''(3) CASE MIX INDEX.—

''(A) IN GENERAL.—In this subsection, the 'case mix index' for a State for a fiscal year is equal to—

''(i) the sum of—

''(I) the projected per recipient expenditures with respect to elderly individuals in the State for the fiscal year (determined under subparagraph (B)),

''(II) the projected per recipient expenditures with respect to the blind and disabled individuals in the State for the fiscal year (determined under subparagraph (C)), and

''(III) the projected per recipient expenditures with respect to other individuals in the State (determined under subparagraph (D)); divided by—

''(ii) the national average spending per recipient determined under subparagraph (E) for the fiscal year involved.

''(B) PROJECTED PER RECIPIENT EXPENDITURES FOR THE ELDERLY.—For purposes of subparagraph (A)(I)(i), the 'projected per recipient expenditures with respect to elderly individuals' in a State for a fiscal year is equal to the product of—

''(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are 65 years of age or older, and

''(ii) the proportion, of all individuals who received medical assistance under this title in the State in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

''(C) PROJECTED PER RECIPIENT EXPENDITURES FOR THE BLIND AND DISABLED.—For purposes of subparagraph (A)(i)(II), the 'projected per recipient expenditures with respect to blind and disabled individuals' in a State for a fiscal year is equal to the product of—

''(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are eligible for medical assistance because they are blind or disabled and under 65 years of age, and

''(ii) the proportion, of all individuals who received medical assistance under this title in the State in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

''(D) PROJECTED PER RECIPIENT EXPENDITURES FOR OTHER INDIVIDUALS.—For purposes of subparagraph (A)(i)(III), the 'projected per recipient expenditures with respect to other individuals' in a State for a fiscal year is equal to the product of—

''(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are not described in subparagraph (B)(i) or (C)(i), and

''(ii) the proportion, of all individuals who received medical assistance under this title

in the State in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

''(E) NATIONAL AVERAGE SPENDING PER RECIPIENT.—For purposes of this paragraph, the 'national average expenditures per recipient' for a fiscal year is equal to the sum of—

''(i) the product of (I) the national average described in subparagraph (B)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph;

''(ii) the product of (I) the national average described in subparagraph (C)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph; and

''(iii) the product of (I) the national average described in subparagraph (D)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph.

''(F) DETERMINATION OF NATIONAL AVERAGES AND PROPORTIONS.—

''(i) IN GENERAL.—The national averages per recipient and the proportions referred to in clauses (i) and (ii), respectively, of subparagraphs (B), (C), and (D) and subparagraph (E) shall be determined by the Secretary using the most recent data available.

''(ii) USE OF MEDICAID DATA.—If for a fiscal year there is inadequate data to compute such averages and proportions based on expenditures and numbers of individuals receiving medical assistance under this title, the Secretary may compute such averages based on expenditures and numbers of such individuals under title XIX for the most recent fiscal year for which data are available and, for this purpose—

''(I) any reference in subparagraph (B)(i) to 'individuals 65 years of age or older' is deemed a reference to 'individuals whose eligibility for medical assistance is based on being 65 years of age or older',

''(II) the reference in subparagraph (C)(i) to 'and under 65 years of age' shall be considered to be deleted, and

''(III) individuals whose basis for eligibility for medical assistance was reported as unknown shall not be counted as individuals under subparagraph (D)(i).

''(4) INPUT COST INDEX.—

''(A) IN GENERAL.—In this section, the 'input cost index' for a State for a fiscal year is the sum of—

''(i) 0.15, and

''(ii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in the State for the fiscal year (as determined under subparagraph (B)), to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for such year (as determined under such subparagraph).

''(B) DETERMINATION OF ANNUAL AVERAGE WAGES OF HOSPITAL EMPLOYEES.—The Secretary shall provide for the determination of annual average wages for hospital employees in a State and, collectively, in the 50 States and the District of Columbia for a fiscal year based on the area wage index applicable to hospitals under 1886(d)(2)(E) (or, if such index no longer exists, a comparable index of hospital wages) for discharges occurring during the fiscal year involved.

''(5) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—For purposes of this subsection, the 'national average spending per resident in poverty'—

''(A) for fiscal year 1997 is equal to—

''(i) the sum (for each of the 50 States and the District of Columbia) of the total of the Federal and State expenditures under title XIX for calendar quarters in fiscal year 1994, increased by the percentage specified in subsection (c)(1)(A)(ii), divided by

''(ii) the sum of the number of residents in poverty (as defined in paragraph (2)(A)) for all of the 50 States and the District of Columbia for fiscal year 1994;

''(B) for a succeeding fiscal year is equal to the national average spending per resident in poverty under this paragraph for the preceding fiscal year increased by the national MediGrant growth percentage (as defined in subsection (b)(2)) for the fiscal year involved.

''(e) PUBLICATION OF OBLIGATION AND OUTLAY ALLOTMENTS.—

''(1) NOTICE OF PRELIMINARY ALLOTMENTS.—Not later than April 1 before the beginning of each fiscal year (beginning with fiscal year 1997), the Secretary shall initially compute, after consultation with the Comptroller General, and publish in the Federal Register notice of the proposed obligation and outlay allotments for each State under this section (not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of the methodology and data used in deriving such allotments for the year.

''(2) REVIEW BY GAO.—The Comptroller General shall submit to Congress by not later than May 15 of each such fiscal year, a report analyzing such allotments and the extent to which they comply with the precise requirements of this section.

''(3) NOTICE OF FINAL ALLOTMENTS.—Not later than July 1 before the beginning of each such fiscal year, the Secretary, taking into consideration the analysis contained in the report of the Comptroller General under paragraph (2), shall compute and publish in the Federal Register notice of the final allotments under this section (both taking into account and not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of any changes in such allotments from the initial allotments published under paragraph (1) for the fiscal year and the reasons for such changes. Once published under this paragraph, the Secretary is not authorized to change such allotments.

''(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than August 1 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which they comply with the precise requirements of this section.

Section 2121 of the Social Security Act (as added by section 16001 of the bill) is amended by adding at the end the following:

''(f) SUPPLEMENTAL ALLOTMENT FOR EMERGENCY HEALTH CARE SERVICES TO CERTAIN ALIENS.—

''(1) IN GENERAL.—Notwithstanding the previous provisions of this section, the amount of the State outlay allotment for a fiscal year for each supplemental allotment eligible State shall be increased by the amount of the supplemental outlay allotment provided under paragraph (2) for the State for that year. The amount of such increased allotment may only be used for the purpose of providing medical assistance for care and services for aliens described in paragraph (1) of section 2123(e) and for which the exception described in paragraph (2) of such section applies. Section 2122(f)(3) shall apply to such assistance in the same manner as it applies to medical assistance described in such section.

''(2) SUPPLEMENTAL OUTLAY ALLOTMENT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the amount of the supplemental outlay allotment for a supplemental allotment eligible State for a fiscal year is equal to the supplemental allotment ratio (as defined in subparagraph (C)) multiplied by the supplemental pool amount (specified in subparagraph (D)) for the fiscal year.

''(B) SUPPLEMENTAL ALLOTMENT ELIGIBLE STATE.—In this subsection, the term 'supplemental allotment eligible State' means one of the 12 States with the highest number of undocumented aliens of all the States.

''(C) SUPPLEMENTAL ALLOTMENT RATIO.—In this paragraph, the 'supplemental allotment ratio' for a State is the ratio of—

''(i) the number of undocumented aliens for the State, to

''(ii) the sum of such numbers for all supplemental allotment eligible States.

''(D) SUPPLEMENTAL POOL AMOUNT.—In this paragraph, the 'supplemental pool amount'—

''(i) for each of fiscal years 1996 through 2002, is an amount so that, if the amount were increased for each such fiscal year beginning with fiscal year 1996 by the national MediGrant growth percentage for the year involved, the total of such amounts for all such fiscal years would be $3 billion; and

''(ii) for a subsequent year is the supplemental pool amount for the previous fiscal year increased by the national MediGrant growth percentage for such subsequent year.

''(E) DETERMINATION OF NUMBER.—The number of undocumented aliens in a State under this paragraph shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved).

''(3) TREATMENT FOR OBLIGATION PURPOSES.—For purposes of computing obligation allotments under subsection (a)—

''(A) the amount of the supplemental pool amount for a fiscal year shall be added to the pool amount under subsection (b) for that fiscal year, and

''(B) the amount supplemental allotment to a State provided under paragraph (1) shall be added to the outlay allotment of the State for that fiscal year.

''(4) SEQUENCE OF OBLIGATIONS.—For purposes of carrying out this title, payments to a supplemental allotment eligible State under section 2122 that are attributable to expenditures for medical assistance described in the second sentence of paragraph (1) shall first be counted toward the supplemental outlay allotment provided under this subsection, rather than toward the outlay allotment otherwise provided under this section.

''(g) SPECIAL ADJUSTMENTS FOR FISCAL YEAR 1996.—Notwithstanding the previous provisions of this section—

''(1) the State outlay allotment for Oregon for fiscal year 1996 is increased by $155,682,700, and

''(2) the State outlay allotment for Tennessee for fiscal year 1996 is increased by $195,468,000.

The increases provided under this subsection shall not apply to or affect the computation of State outlay allotments of any other States and shall not apply for any fiscal year other than fiscal year 1996.

''SEC. 2122. PAYMENTS TO STATES.

''(a) AMOUNT OF PAYMENT.—From the allotment of a State under section 2121 for a fiscal year, subject to the succeeding provisions of this title, the Secretary shall pay to each State which has a MediGrant plan approved under part E, for each quarter in the fiscal year—

''(1) an amount equal to the applicable Federal medical assistance percentage (as defined in subsection (c)) of the total amount expended during such quarter as medical assistance under the plan; plus

''(2) an amount equal to the applicable Federal medical assistance percentage of the total amount expended during such quarter for medically-related services (as defined in section 2112(e)(2)); plus

''(3) subject to section 2123(c)—

''(A) an amount equal to 90 percent of the amounts expended during such quarter for the design, development, and installation of information systems and for providing incentives to promote the enforcement of medical support orders, plus

''(B) an amount equal to 75 percent of the amounts expended during such quarter for medical personnel, administrative support of medical personnel, operation and maintenance of information systems, modification of information systems, quality assurance activities, utilization review, medical and peer review, anti-fraud activities, independent evaluations, coordination of benefits, and meeting reporting requirements under this title, plus

''(C) an amount equal to 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State plan.

''(b) PAYMENT PROCESS.—

''(1) QUARTERLY ESTIMATES.—Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

''(2) PAYMENT.—

''(A) IN GENERAL.—The Secretary shall then pay to the State, in such installments as the Secretary may determine and in accordance with section 6503(a) of title 31, United States Code, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section (or section 1903) to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection (or under section 1903(d)).

''(B) TREATMENT AS OVERPAYMENTS.—Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 2135.

''(C) RECOVERY OF OVERPAYMENTS.—For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

''(D) NO ADJUSTMENT FOR UNCOLLECTABLES.—In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).

''(3) FEDERAL SHARE OF RECOVERIES.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

''(4) TIMING OF OBLIGATION OF FUNDS.—Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

''(5) DISALLOWANCES.—In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.

''(c) APPLICABLE FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—In this section, except as provided in subsection (f), the term 'applicable Federal medical assistance percentage' means, with respect to one of the 50 States or the District of Columbia, at the State's or District's option—

''(1) the old Federal medical assistance percentage (as determined in subsection (d)), or

''(2) the new Federal medical assistance percentage (as determined under subsection (e)) or, if less, the old Federal medical assistance percentage plus 10 percentage points.

''(d) OLD FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), the term 'old Federal medical assistance percentage' for any State is 100 percent less the State percentage; and the State percentage is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii.

''(2) LIMITATION ON RANGE.—In no case shall the old Federal medical assistance percentage be less than 50 percent or more than 83 percent.

''(3) PROMULGATION.—The old Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B).

''(e) NEW FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—

''(1) IN GENERAL.—

''(A) TERM DEFINED.—Except as provided in paragraph (3) and subsection (f), the term 'new Federal medical assistance percentage' means, for each of the 50 States and the District of Columbia, 100 percent reduced by the product 0.39 and the ratio of—

''(i)(I) for each of the 50 States, the total taxable resources (TTR) ratio of the State specified in subparagraph (B), or

''(II) for the District of Columbia, the per capita income ratio specified in subparagraph (C),

to—

''(ii) the aggregate expenditure need ratio of the State or District, as described in subparagraph (D).

''(B) TOTAL TAXABLE RESOURCES (TTR) RATIO.—For purposes of subparagraph (A)(i)(I), the total taxable resources (TTR) ratio for each of the 50 States is—

''(i) an amount equal to the most recent 3-year average of the total taxable resources (TTR) of the State, as determined by the Secretary of the Treasury, divided by

''(ii) an amount equal to the sum of the 3-year averages determined under clause (i) for each of the 50 States.

''(C) PER CAPITA INCOME RATIO.—For purposes of subparagraph (A)(i)(II), the per capita income ratio of the District of Columbia is—

''(i) an amount equal to the most recent 3-year average of the total personal income of the District of Columbia, as determined in accordance with the provisions of section 1101(a)(8)(B), divided by

''(ii) an amount equal to the total personal income of the continental United States (including Alaska) and Hawaii, as determined under section 1101(a)(8)(B).

''(D) AGGREGATE EXPENDITURE NEED RATIO.—For purposes of subparagraph (A), with respect to each of the 50 States and the District of Columbia for a fiscal year, the aggregate expenditure need ratio is—

''(i) the State aggregate expenditure need (as defined in section 2121(d)) for the State for the fiscal year, divided by

''(ii) the such of such State aggregate expenditure needs for the 50 States and the District of Columbia for the fiscal year.

''(2) LIMITATION ON RANGE.—Except as provided in subsection (f), the new Federal medical assistance percentage shall in no case be less than 40 percent or greater than 83 percent.

''(3) PROMULGATION.—The new Federal medical assistance percentage for any State shall be promulgated in a timely manner consistent with the promulgation of the old Federal medical assistance percentage under section 1101(a)(8)(B).

''(f) SPECIAL RULES.—For purposes of this title—

''(1) COMMONWEALTHS AND TERRITORIES.—In the case of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, the old and new Federal medical assistance percentages are 50 percent.

''(2) INDIAN HEALTH SERVICE FACILITIES.—

''(A) IN GENERAL.—The old and new Federal medical assistance percentages shall be 100 percent with respect to the amounts expended as medical assistance for services which are received through a facility described in subparagraph (B) of an Indian tribe or tribal organization or through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).

''(B) FACILITY DESCRIBED.—For purposes of subparagraph (A), a facility described in this subparagraph is a facility of an Indian tribe if—

''(i) the facility is located in a State which, as of the date of the enactment of this title, was not operating its State plan under title XIX pursuant to a Statewide waiver approved under section 1115,

''(ii) the facility is not an Indian Health Service facility,

''(iii) the tribe owns at least 2 such facilities, and

''(iv) the tribe has at least 50,000 members (as of the date of the enactment of this title).

''(3) NO STATE MATCHING REQUIRED FOR CERTAIN EXPENDITURES.—In applying subsection (a)(1) with respect to medical assistance provided to unlawful aliens pursuant to the exception specified in section 2123(e)(2), payment shall be made for the amount of such assistance without regard to any need for a State match.

''SEC. 2123. LIMITATION ON USE OF FUNDS; DISALLOWANCE.

''(a) IN GENERAL.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.

''(b) DISALLOWANCES FOR EXCLUDED PROVIDERS.—

''(1) IN GENERAL.—Payment shall not be made to a State under this part for expenditures for items and services furnished—

''(A) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

''(B) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.

''(2) EXCEPTION FOR EMERGENCY SERVICES.—Paragraph (1) shall not apply to emergency items or services, not including hospital emergency room services.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—No Federal financial assistance is available for expenditures under the MediGrant plan for—

''(A) medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter; or

''(B) total administrative expenses (other than expenses described in paragraph (2) during the first 8 quarters in which the plan is in effect under this title) for quarters in a fiscal year to the extent such expenditures exceed the sum of $20,000,000 plus 10 percent of the total expenditures under the plan for the year.

''(2) ADMINISTRATIVE EXPENSES NOT SUBJECT TO LIMITATION.—The administrative expenses referred to in this paragraph are expenditures under the MediGrant plan for the following activities:

''(A) Quality assurance.

''(B) The development and operation of the certification program for nursing facilities and intermediate care facilities for the mentally retarded under section 2137(a)(2).

''(C) Utilization review activities, including medical activities and activities of peer review organizations.

''(D) Inspection and oversight of providers and capitated health care organizations.

''(E) Anti-fraud activities.

''(F) Independent evaluations.

''(G) Activities required to meet reporting requirements under this title.

''(d) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its MediGrant plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

''(e) LIMITATION ON PAYMENTS TO EMERGENCY SERVICES FOR NONLAWFUL ALIENS.—

''(1) IN GENERAL.—Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this part for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

''(2) EXCEPTION FOR EMERGENCY SERVICES.—Payment may be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

''(A) such care and services are necessary for the treatment of an emergency medical condition of the alien,

''(B) such alien otherwise meets the eligibility requirements for medical assistance under the MediGrant plan (other than a requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment), and

''(C) such care and services are not related to an organ transplant procedure.

''(3) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

''(A) placing the patient's health in serious jeopardy,

''(B) serious impairment to bodily functions, or

''(C) serious dysfunction of any bodily organ or part.

''(f) LIMITATION ON PAYMENT FOR CERTAIN OUTPATIENT PRESCRIPTION DRUGS.—

''(1) IN GENERAL.—No payment may be made to a State under this part for medical assistance for covered outpatient drugs (as defined in section 2175(i)(2)) of a manufacturer provided under the MediGrant plan unless the manufacturer (as defined in section 2175(i)(4)) of the drug—

''(A) has entered into a MediGrant master rebate agreement with the Secretary under section 2175; and

''(B) is complying with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section.

''(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to participate in the MediGrant master rebate agreement under section 2175.

''(3) EFFECT OF SUBSEQUENT AMENDMENTS.—For purposes of paragraph (1)(B), in determining whether a manufacturer is in compliance with the requirements of section 8126 of title 38, United States Code—

''(A) the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992; and

''(B) a manufacturer is deemed to meet such requirements if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 8126 of title 38, United States Code (as in effect immediately after the enactment of the Veterans Health Care Act of 1992) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of the Veterans Health Care Act of 1992.

''(g) LIMITATION ON PAYMENT FOR ABORTIONS.—

''(1) IN GENERAL.—Payment shall not be made to a State under this part for any amount expended under the MediGrant plan to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

''(2) EXCEPTION.—Paragraph (1) shall not apply to an abortion—

''(A) if the pregnancy is the result of an act of rape or incest, or

''(B) in the case where a woman suffers from a physical disorder, illness, or injury that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

''(h) LIMITATION ON PAYMENT FOR ASSISTING DEATHS.—Payment shall not be made to a State under this part for amounts expended under the MediGrant plan to pay for, or to assist in the purchase, in whole or in part, of health benefit coverage that includes payment for any drug, biological product, or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

''PART D—PROGRAM INTEGRITY AND QUALITY

''SEC. 2131. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.

''(a) FINANCIAL AUDITS OF PROGRAM.—

''(1) IN GENERAL.—Each MediGrant plan shall provide for an annual audit of the State's expenditures from amounts received under this title, in compliance with chapter 75 of title 31, United States Code.

''(2) VERIFICATION AUDITS.—If, after consultation with the State and the Comptroller General and after a fair hearing, the Secretary determines that a State's audit under paragraph (1) was performed in substantial violation of chapter 75 of title 31, United States Code, the Secretary may—

''(A) require that the State provide for a verification audit in compliance with such chapter, or

''(B) conduct such a verification audit.

''(3) AVAILABILITY OF AUDIT REPORTS.—Within 30 days after completion of each audit or verification audit under this subsection, the State shall—

''(A) provide the Secretary with a copy of the audit report, including the State's response to any recommendations of the auditor, and

''(B) make the audit report available for public inspection in the same manner as proposed MediGrant plan amendments are made available under section 2105.

''(b) FISCAL CONTROLS.—

''(1) IN GENERAL.—With respect to the accounting and expenditure of funds under this title, each State shall adopt and maintain such fiscal controls, accounting procedures, and data processing safeguards as the State deems reasonably necessary to assure the fiscal integrity of the State's activities under this title.

''(2) CONSISTENCY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—Such controls and procedures shall be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.

''(c) AUDITS OF PROVIDERS.—Each MediGrant plan shall provide that the records of any entity providing items or services for which payment may be made under the plan may be audited as necessary to ensure that proper payments are made under the plan.

"SEC. 2132. FRAUD PREVENTION PROGRAM.

''(a) ESTABLISHMENT.—Each MediGrant plan shall provide for the establishment and maintenance of an effective program for the detection and prevention of fraud and abuse by beneficiaries, providers, and others in connection with the operation of the program.

''(b) PROGRAM REQUIREMENTS.—The program established pursuant to subsection (a) shall include at least the following requirements:

''(1) DISCLOSURE OF INFORMATION.—Any disclosing entity (as defined in section 1124(a)) receiving payments under the MediGrant plan shall comply with the requirements of section 1124.

''(2) SUPPLY OF INFORMATION.—An entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, an item or service under the MediGrant plan shall supply upon request specifically addressed to the entity by the Secretary or the State agency the information described in section 1128(b)(9).

''(3) EXCLUSION.—

''(A) IN GENERAL.—The MediGrant plan shall exclude any specified individual or entity from participation in the plan for the period specified by the Secretary when required by the Secretary to do so pursuant to section 1128 or section 1128A, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period.

''(B) AUTHORITY.—In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the MediGrant plan for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII or under section 1128, 1128A, or 1866(b)(2).

''(4) NOTICE.—The MediGrant plan shall provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the plan, the State agency responsible for administering the plan shall promptly notify the Secretary and, in the case of a physician, the State medical licensing board of such action.

''(5) ACCESS TO INFORMATION.—The MediGrant plan shall provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 2133.

"SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

''(a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 2132(b)(5) is that the State must provide for the following:

''(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners (or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners) or entities:

''(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.

''(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

''(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

''(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.

''(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

''(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—

''(1) to agencies administering Federal health care programs, including private entities administering such programs under contract,

''(2) to licensing authorities described in subsection (a)(1),

''(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h)),

''(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts,

''(5) to State MediGrant fraud control units (as defined in section 2134),

''(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act),

''(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate, and

''(8) upon request, to the Comptroller General,

in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

''(c) CONFIDENTIALITY OF INFORMATION PROVIDED.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

''(d) APPROPRIATE COORDINATION.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and section 422 of the Health Care Quality Improvement Act of 1986.

"SEC. 2134. STATE MEDIGRANT FRAUD CONTROL UNITS.

''(a) IN GENERAL.—Each MediGrant plan shall provide for a State MediGrant fraud control unit described in subsection (b) that effectively carries out the functions and requirements described in such subsection, unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without the existence of such a unit

''(b) UNITS DESCRIBED.—For purposes of this subsection, the term 'State MediGrant fraud control unit' means a single identifiable entity of the State government which meets the following requirements:

''(1) ORGANIZATION.—The entity—

''(A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

''(B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures that—

''(i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution, and

''(ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

''(C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

''(2) INDEPENDENCE.—The entity is separate and distinct from any State agency that has principal responsibilities for administering or supervising the administration of the MediGrant plan.

''(3) FUNCTION.—The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the MediGrant plan.

''(4) REVIEW OF COMPLAINTS.—The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the MediGrant plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

''(5) OVERPAYMENTS.—The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the MediGrant plan to health care providers and that are discovered by the entity in carrying out its activities.

''(6) PERSONNEL.—The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"SEC. 2135. RECOVERIES FROM THIRD PARTIES AND OTHERS.

''(a) THIRD PARTY LIABILITY.—Each MediGrant plan shall provide for reasonable steps—

''(1) to ascertain the legal liability of third parties to pay for care and services available under the plan, including the collection of sufficient information to enable States to pursue claims against third parties; and

''(2) to seek reimbursement for medical assistance provided to the extent legal liability is establish where the amount expected to be recovered exceeds the costs of the recovery.

''(b) BENEFICIARY PROTECTION.—

''(1) IN GENERAL.—Each MediGrant plan shall provide that in the case of a person furnishing services under the plan for which a third party may be liable for payment—

''(A) the person may not seek to collect from the individual (or financially responsible relative) payment of an amount for the service more than could be collected under the plan in the absence of such third party liability, and

''(B) may not refuse to furnish services to such an individual because of a third party's potential liability for payment for the service.

''(2) PENALTY.—A MediGrant plan may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to three times the amount of any payment sought to be collected by that person in violation of paragraph (1)(A).

''(c) GENERAL LIABILITY.—The State shall prohibit any health insurer (including a group health plan as defined in section 607 of the Employee Retirement Income Security Act of 1974, a service benefit plan, or a health maintenance organization), in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a MediGrant plan for any State.

''(d) ACQUISITION OF RIGHTS OF BENEFICIARIES.—To the extent that payment has been made under a MediGrant plan in any case where a third party has a legal liability to make payment for such assistance, the State shall have in effect laws under which, to the extent that payment has been made under the plan for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.

''(e) ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.—The MediGrant plan shall provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients in accordance with section 2136.

''(f) REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT.—

''(1) IN GENERAL.—Each State with a MediGrant plan shall have in effect the following laws:

''(A) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

''(i) the child was born out of wedlock,

''(ii) the child is not claimed as a dependent on the parent's Federal income tax return, or

''(iii) the child does not reside with the parent or in the insurer's service area.

''(B) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

''(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

''(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

''(iii) not to disenroll (or eliminate coverage of) such a child unless the insurer is provided satisfactory written evidence that—

''(I) such court or administrative order is no longer in effect, or

''(II) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

''(C) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

''(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

''(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

''(iii) not to disenroll (or eliminate coverage of) any such child unless—

''(I) the employer is provided satisfactory written evidence that such court or administrative order is no longer in effect, or the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or

''(II) the employer has eliminated family health coverage for all of its employees; and

''(iv) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (except that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.

''(D) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

''(E) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

''(i) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

''(ii) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

''(iii) to make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.

''(F) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

''(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

''(ii) has received payment from a third party for the costs of such services to such child, but

''(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

''(2) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

''(g) ESTATE RECOVERIES AND LIENS PERMITTED.—A State may take such actions as it considers appropriate to adjust or recover from the individual or the individual's estate any amounts paid as medical assistance to or on behalf of the individual under the MediGrant plan, including through the imposition of liens against the property or estate of the individual.

"SEC. 2136. ASSIGNMENT OF RIGHTS OF PAYMENT.

''(a) IN GENERAL.—For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the MediGrant plan, each MediGrant plan shall—

''(1) provide that, as a condition of eligibility for medical assistance under the plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

''(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under the plan and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party,

''(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is a pregnant woman or the individual is found to have good cause for refusing to cooperate as determined by the State, and

''(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State; and

''(2) provide for entering into cooperative arrangements (including financial arrangements), with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the plan with respect to—

''(A) the enforcement and collection of rights to support or payment assigned under this section, and

''(B) any other matters of common concern.

''(b) USE OF AMOUNTS COLLECTED.—Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.

''SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES.

''(a) STANDARDS FOR AND CERTIFICATION OF CERTAIN FACILITIES.—

''(1) STANDARDS FOR FACILITIES.—

''(A) IN GENERAL.—Each MediGrant plan shall provide for the establishment and maintenance of standards consistent with the contents described in subparagraph (B) for nursing facilities which furnish services under the plan. Such standards shall provide that nursing facilities must care for residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident.

''(B) CONTENTS OF STANDARDS.—The standards established for facilities under this paragraph shall contain provisions relating to the following items:

''(i) The treatment of resident medical records.

''(ii) Policies, procedures, and bylaws for operation.

''(iii) Quality assurance systems.

''(iv) Resident assessment procedures, including care planning and outcome evaluation.

''(v) The assurance of a safe and adequate physical plant for the facility.

''(vi) Qualifications for staff sufficient to provide adequate care, as defined by the State.

''(vii) Utilization review.

''(viii) The protection and enforcement of resident rights described in paragraph (2)(A).

''(C) PROCESS FOR ESTABLISHMENT.—The standards established by the State for facilities under this paragraph shall be promulgated either through the State's legislative, regulatory, or other process, and may only take effect after the State has provided the public with notice and an opportunity for comment.

''(2) RESIDENTS' RIGHTS.—

''(A) IN GENERAL.—The resident rights described in this paragraph are the rights of residents to the following:

''(i) To exercise the individual's rights as a resident of the facility and as a citizen or resident of the United States.

''(ii) To receive notice of rights and services.

''(iii) To be protected against the misuse of resident funds.

''(iv) To be provided privacy and confidentiality.

''(v) To voice grievances.

''(vi) To examine the results of State certification program inspections.

''(vii) To refuse to perform services for the facility.

''(viii) To be provided privacy in communications and to receive mail.

''(ix) To have the facility provide immediate access to any resident by any representative of the certification program, the resident's individual physician, the State long term care ombudsman, and any person the resident has designated as a visitor.

''(x) To retain and use personal property.

''(xi) To be free from abuse, including verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion and not to have any physical or chemical restraints imposed for purposes of discipline or convenience unless required to treat the resident's medical symptoms.

''(xii) To be provided with prior written notice of a pending transfer or discharge.

''(xiii) To organize and participate in resident groups in the facility and to have family members meet in the facility with the families of other residents in the facility.

''(xiv) To participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

''(xv) To choose a personal attending physician, to be fully informed in advance about care and treatment, and (except with respect to a resident adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.

''(xvi) To not have psycho- pharmacologic drugs administered except under the orders of a physician and as part of a plan designed to eliminate or modify the symptoms for which the drugs are prescribed.

''(B) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under the MediGrant plan shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

''(3) CERTIFICATION PROGRAM.—

''(A) IN GENERAL.—Each MediGrant plan shall provide for the establishment and operation of a program consistent with the requirements of subparagraph (B) for the certification of nursing facilities which meet the standards established under paragraph (1) and the decertification of facilities which fail to meet such standards.

''(B) REQUIREMENTS FOR PROGRAM.—In addition to any other requirements the State may impose, in establishing and operating the certification program under subparagraph (A), the State shall ensure the following:

''(i) The State shall ensure public access (as defined by the State) to the certification program's evaluations of participating facilities, including compliance records and enforcement actions and other reports by the State regarding the ownership, compliance histories, and services provided by certified facilities.

''(ii) Not less often than every 4 years, the State shall audit its expenditures under the program, through an entity designated by the State which is not affiliated with the program, as designated by the State.

''(b) INTERMEDIATE SANCTION AUTHORITY.—

''(1) AUTHORITY.—In addition to any other authority under State law, where a State determines that a nursing facility which is certified for participation under the MediGrant plan no longer substantially meets the requirements for such a facility under this title and further determines that the facility's deficiencies—

''(A) immediately jeopardize the health and safety of its residents, the State shall at least provide for the termination of the facility's certification for participation under the plan, or

''(B) do not immediately jeopardize the health and safety of its residents, the State may, in lieu of providing for terminating the facility's certification for participation under the plan, provide lesser sanctions including one that provides that no payment will be made under the plan with respect to any individual admitted to such facility after a date specified by the State.

''(2) NOTICE.—The State shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the requirements for such a facility under the plan, to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

''(3) EFFECTIVENESS.—The State's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the State, and its effectiveness shall terminate (A) when the State finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the requirements for such a facility under this title, or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the State shall terminate such facility's certification for participation under the MediGrant plan effective with the first day of the first month following the month specified in such clause.

''SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY.

''(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each MediGrant plan shall provide that upon completion of a survey of any health care facility or organization by a State agency to carry out the plan, the agency shall make public in readily available form and place the pertinent findings of the survey relating to the compliance of the facility or organization with requirements of law.

''(b) RECORD KEEPING.—Each MediGrant plan shall provide for agreements with persons or institutions providing services under the plan under which the person or institution agrees—

''(1) to keep such records (including ledgers, books, and original evidence of costs) as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the plan; and

''(2) to furnish the State agency with such information regarding any payments claimed by such person or institution for providing services under the plan, as the State agency may from time to time request.

''PART E—ESTABLISHMENT AND AMENDMENT OF MEDIGRANT PLANS

''SEC. 2151. SUBMITTAL AND APPROVAL OF MEDIGRANT PLANS.

''(a) SUBMITTAL.—As a condition of receiving funding under part C, each State shall submit to the Secretary a MediGrant plan that meets the applicable requirements of this title.

''(b) APPROVAL.—Except as the Secretary may provide under section 2154, a MediGrant plan submitted under subsection (a)—

''(1) shall be approved for purposes of this title, and

''(2) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins at least 60 days after the date the plan is submitted.

''(c) APPROVAL OF LEGISLATURE FOR SUBMITTAL.—In the case of a State which has a State allotment under section 2121(c)(1) for fiscal year 1996 of more than $10 billion, the State may not submit a MediGrant plan under this section unless the State legislature, by law, has specifically authorized such submittal.

"SEC. 2152. SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS.

''(a) SUBMITTAL OF AMENDMENTS.—A State may amend, in whole or in part, its MediGrant plan at any time through transmittal of a plan amendment under this section.

''(b) APPROVAL.—Except as the Secretary may provide under section 2154, an amendment to a MediGrant plan submitted under subsection (a)—

''(1) shall be approved for purposes of this title, and

''(2) shall be effective as provided in subsection (c).

''(c) EFFECTIVE DATES FOR AMENDMENTS.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an amendment to MediGrant plan shall take effect on one or more effective dates specified in the amendment.

''(2) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—Except as provided in paragraph (4)—

''(A) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

''(B) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60 day period unless the amendment has been transmitted to the Secretary before the end of such period.

''(3) OTHER AMENDMENTS.—Subject to paragraph (4), any plan amendment that is not described in paragraph (2) becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

''(4) EXCEPTION.—The requirements of paragraphs (2) and (3) shall not apply to a plan amendment that is submitted on a timely basis pursuant to a court order or an order of the Secretary.

"SEC. 2153. PROCESS FOR STATE WITHDRAWAL FROM PROGRAM.

''(a) IN GENERAL.—A State may rescind its MediGrant plan and discontinue participation in the program under this title at any time after providing—

''(1) the public with 90 days prior notice in a publication in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules, and

''(2) the Secretary with 90 days prior written notice.

''(b) EFFECTIVE DATE.—Such discontinuation shall not apply to payments under part C for expenditures made for items and services furnished under the MediGrant plan before the effective date of the discontinuation.

''(c) PRORATION OF ALLOTMENTS.—In the case of any withdrawal under this section other than at the end of a Federal fiscal year, notwithstanding any provision of section 2121 to the contrary, the Secretary shall provide for such appropriate proration of the application of allotments under section 2121 as is appropriate.

"SEC. 2154. SANCTIONS FOR SUBSTANTIAL NONCOMPLIANCE.

''(a) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review MediGrant plans and plan amendments submitted under this part to determine if they substantially comply with the requirements of this title.

''(b) DETERMINATIONS OF SUBSTANTIAL NONCOMPLIANCE.—

''(1) AT TIME OF PLAN OR AMENDMENT SUBMITTAL.—

''(A) IN GENERAL.—If the Secretary, during the 30-day period beginning on the date of submittal of a MediGrant plan or plan amendment—

''(i) determines that the plan or amendment substantially violates (within the meaning of subsection (c)) a requirement of this title, and

''(ii) provides written notice of such determination to the State,

the Secretary shall issue an order specifying that the plan or amendment, insofar as it is in substantial violation of such a requirement, shall not be effective, except as provided in subsection (c), beginning at the end of a period of not less than 30 days, or 120 days in the case of the initial submission of the MediGrant plan) specified in the order beginning on the date of the notice of the determination.

''(B) EXTENSION OF TIME PERIODS.—The time periods specified in subparagraph (A) may be extended by written agreement of the Secretary and the State involved.

''(2) VIOLATIONS IN ADMINISTRATION OF PLAN.—

''(A) IN GENERAL.—If the Secretary determines, after reasonable notice and opportunity for a hearing for the State, that in the administration of a MediGrant plan there is a substantial violation of a requirement of this title, the Secretary shall provide the State with written notice of the determination and with an order to remedy such violation. Such an order shall become effective prospectively, as specified in the order, after the date of receipt of such written notice. Such an order may include the withholding of funds, consistent with subsection (f), for parts of the MediGrant plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

''(B) EFFECTIVENESS.—If the Secretary issues an order under paragraph (1), the order shall become effective, except as provided in subsection (c), beginning at the end of a period (of not less than 30 days) specified in the order beginning on the date of the notice of the determination to the State.

''(C) TIMELINESS OF DETERMINATIONS RELATING TO REPORT-BASED COMPLIANCE.—The Secretary shall make determinations under this paragraph respecting violations relating to information contained in an annual report under section 2102, an independent evaluation under section 2103, or an audit report under section 2131 not later than 30 days after the date of transmittal of the report or evaluation to the Secretary.

''(3) CONSULTATION WITH STATE.—Before making a determination adverse to a State under this section, the Secretary shall (within any time periods provided under this section)—

''(A) reasonably consult with the State involved,

''(B) offer the State a reasonable opportunity to clarify the submission and submit further information to substantiate compliance with the requirements of this title, and

''(C) reasonably consider any such clarifications and information submitted.

''(4) JUSTIFICATION OF ANY INCONSISTENCIES IN DETERMINATIONS.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under this title, the Secretary shall include in the determination a detailed explanation and justification for any such difference.

''(5) SUBSTANTIAL VIOLATION DEFINED.—For purposes of this title, a MediGrant plan (or amendment to such a plan) or the administration of the MediGrant plan is considered to 'substantially violate' a requirement of this title if a provision of the plan or amendment (or an omission from the plan or amendment) or the administration of the plan—

''(A) is material and substantial in nature and effect, and

''(B) is inconsistent with an express requirement of this title.

A failure to meet a strategic objective or performance goal (as described in section 2101) shall not be considered to substantially violate a requirement of this title.

''(c) STATE RESPONSE TO ORDERS.—

''(1) STATE RESPONSE BY REVISING PLAN.—

''(A) IN GENERAL.—Insofar as an order under subsection (b)(1) relates to a substantial violation by a MediGrant plan or plan amendment, a State may respond (before the date the order becomes effective) to such an order by submitting a written revision of the plan or plan amendment to substantially comply with the requirements of this part.

''(B) REVIEW OF REVISION.—In the case of submission of such a revision, the Secretary shall promptly review the submission and shall withhold any action on the order during the period of such review.

''(C) SECRETARIAL RESPONSE.—The revision shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the revision, that the plan or amendment, as proposed to be revised, still substantially violates a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

''(D) REVISION RETROACTIVE.—If the revision provides for substantial compliance, the revision may be treated, at the option of the State, as being effective either as of the effective date of the provision to which it relates or such later date as the State and Secretary may agree.

''(2) STATE RESPONSE BY SEEKING RECONSIDERATION OR AN ADMINISTRATIVE HEARING.—A State may respond to an order under subsection (b) by filing a request with the Secretary for—

''(A) a reconsideration of the determination, pursuant to subsection (d)(1), or

''(B) a review of the determination through an administrative hearing, pursuant to subsection (d)(2).

In such case, the order shall not take effect before the completion of the reconsideration or hearing.

''(3) STATE RESPONSE BY CORRECTIVE ACTION PLAN.—

''(A) IN GENERAL.—In the case of an order described in subsection (b)(2) that relates to a substantial violation in the administration of the MediGrant plan, a State may respond to such an order by submitting a corrective action plan with the Secretary to correct deficiencies in the administration of the plan which are the subject of the order.

''(B) REVIEW OF CORRECTIVE ACTION PLAN.—In such case, the Secretary shall withhold any action on the order for a period (not to exceed 30 days) during which the Secretary reviews the corrective action plan.

''(C) SECRETARIAL RESPONSE.—The corrective action plan shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the corrective action plan, that the State's administration of the MediGrant plan, as proposed to be corrected in the plan, will still substantially violate a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

''(4) STATE RESPONSE BY WITHDRAWAL OF PLAN AMENDMENT; FAILURE TO RESPOND.—Insofar as an order relates to a substantial violation in a plan amendment submitted, a State may respond to such an order by withdrawing the plan amendment and the MediGrant plan shall be treated as though the amendment had not been made.

''(d) ADMINISTRATIVE REVIEW AND HEARING.—

''(1) RECONSIDERATION.—Within 30 days after the date of receipt of a request under subsection (b)(2)(A), the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse the original determination within 60 days of the conclusion of the hearing.

''(2) ADMINISTRATIVE HEARING.—Within 30 days after the date of receipt of a request under subsection (b)(2)(B), an administrative law judge shall schedule a hearing for the purpose of reviewing the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The administrative law judge shall affirm, modify, or reverse the determination within 60 days of the conclusion of the hearing.

''(e) JUDICIAL REVIEW.—

''(1) IN GENERAL.—A State which is dissatisfied with a final determination made by the Secretary under subsection (d)(1) or a final determination of an administrative law judge under subsection (d)(2) may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary and, in the case of a determination under subsection (d)(2), to the administrative law judge involved. The Secretary (or judge involved) thereupon shall file in the court the record of the proceedings on which the final determination was based, as provided in section 2112 of title 28, United States Code.

''(2) STANDARD FOR REVIEW.—The findings of fact by the Secretary or administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(3) JURISDICTION OF APPELLATE COURT.—The court shall have jurisdiction to affirm the action of the Secretary or judge or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''(f) WITHHOLDING OF FUNDS.—

''(1) IN GENERAL.—Any order under this section relating to the withholding of funds shall be effective not earlier than the effective date of the order and shall only relate to the portions of a MediGrant plan or administration thereof which substantially violate a requirement of this title. In the case of a failure to meet a set-aside requirement under section 2112, any withholding shall only apply to the extent of such failure.

''(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (d) or (e).

''(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—

''(A) to the extent and at the time the order is—

''(i) modified or withdrawn by the Secretary upon reconsideration,

''(ii) modified or reversed by an administrative law judge, or

''(iii) set aside (in whole or in part) by an appellate court; or

''(B) when the Secretary determines that the deficiency which was the basis for the order is corrected;

''(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or

''(D) at any time upon the initiative of the Secretary.

''SEC. 2155. SECRETARIAL AUTHORITY.

''(a) NEGOTIATED AGREEMENT AND DISPUTE RESOLUTION.—

''(1) NEGOTIATIONS.—Nothing in this part shall be construed as preventing the Secretary and a State from at any time negotiating a satisfactory resolution to any dispute concerning the approval of a MediGrant plan (or amendments to a MediGrant plan) or the compliance of a MediGrant plan (including its administration) with requirements of this title.

''(2) COOPERATION.—The Secretary shall act in a cooperative manner with the States in carrying out this title. In the event of a dispute between a State and the Secretary, the Secretary shall, whenever practicable, engage in informal dispute resolution activities in lieu of formal enforcement or sanctions under section 2154.

''(b) LIMITATIONS ON DELEGATION OF DECISION-MAKING AUTHORITY.—The Secretary may not delegate (other than to the Administrator of the Health Care Financing Administration) the authority to make determinations or reconsiderations respecting the approval of MediGrant plans (or amendments to such plans) or the compliance of a MediGrant plan (including its administration) with requirements of this title. Such Administrator may not further delegate such authority to any individual, including any regional official of such Administration.

''(c) REQUIRING FORMAL RULEMAKING FOR CHANGES IN SECRETARIAL ADMINISTRATION.—The Secretary shall carry out the administration of the program under this title only through a prospective formal rulemaking process, including issuing notices of proposed rule making, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

''PART F—GENERAL PROVISIONS

''SEC. 2171. DEFINITIONS.

''(a) MEDICAL ASSISTANCE.—

''(1) IN GENERAL.—For purposes of this title, except as provided in paragraph (2), the term 'medical assistance' means payment of part or all the cost of any of the following for eligible low-income individuals (as defined in subsection (b)) as specified under the MediGrant plan:

''(A) Inpatient hospital services.

''(B) Outpatient hospital services.

''(C) Physician services.

''(D) Surgical services.

''(E) Clinic services and other ambulatory health care services.

''(F) Nursing facility services.

''(G) Intermediate care facility services for the mentally retarded.

''(H) Prescription drugs and biologicals.

''(I) Over-the-counter medications.

''(J) Laboratory and radiological services.

''(K) Family planning services and supplies.

''(L) Inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services in the case of a child.

''(M) Outpatient mental health services, including services furnished in a State-operated mental hospital and including community-based services in the case of a child.

''(N) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

''(O) Disposable medical supplies.

''(P) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, and training for family members).

''(Q) Community supported living arrangements.

''(R) Nursing care services (such as private duty nursing care, nurse midwife services, respiratory care services, pediatric nurse services, and advanced practice nurse services) in a home, school, or other setting.

''(S) Dental services.

''(T) Inpatient substance abuse treatment services and residential substance abuse treatment services.

''(U) Outpatient substance abuse treatment services.

''(V) Case management services.

''(W) Care coordination services.

''(X) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

''(Y) Hospice care.

''(Z) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and if the service is—

''(i) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

''(ii) performed under the general supervision or at the direction of a physician, or

''(iii) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

''(AA) Premiums for private health care insurance coverage, including private long-term care insurance coverage.

''(BB) Medical transportation.

''(CC) Medicare cost-sharing (as defined in subsection (c)).

''(DD) Enabling services (such as transportation, translation, and outreach services) designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

''(EE) Any other health care services or items specified by the Secretary.

''(2) EXCLUSION OF CERTAIN PAYMENTS.—Such term does not include the payment with respect to care or services for—

''(A) any individual who is an inmate of a public institution (except as a patient in a State psychiatric hospital); and

''(B) any individual who is not an eligible low-income individual.

''(b) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term 'eligible low-income individual'

means an individual who has been determined eligible by the State for medical assistance under the MediGrant plan and whose family income (as determined under the plan) does not exceed a percentage (specified in the MediGrant plan and not to exceed 300 percent) of the poverty line for a family of the size involved. In determining the amount of income under the previous sentence, a State may exclude costs incurred for medical care or other types of remedial care recognized by the State.

''(c) MEDICARE COST-SHARING.—For purposes of this title, the term 'medicare cost-sharing' means any of the following:

''(1)(A) Premiums under section 1839.

''(B) Premiums under section 1818 or 1818A.

''(2) Coinsurance under title XVIII (including coinsurance described in section 1813).

''(3) Deductibles established under title XVIII (including those described in section 1813 and section 1833(b)).

''(4) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

''(5) Premiums for enrollment of an individual with an eligible organization under section 1876 or with a MedicarePlus organization under part C of title XVIII.

''(d) ADDITIONAL DEFINITIONS.—For purposes of this title:

''(1) CHILD.—The term 'child' means an individual under 19 years of age.

''(2) POVERTY LINE DEFINED.—The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981).

''(3) PREGNANT WOMAN.—The term 'pregnant woman' includes a woman during the 60-day period beginning on the last day of the pregnancy.

''SEC. 2172. TREATMENT OF TERRITORIES.

''Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program a State other than the 50 States and the District of Columbia, other than a waiver of—

''(1) the applicable Federal medical assistance percentage,

''(2) the limitation on total payments in a fiscal year to the amount of the allotment under section 2121(c), or

''(3) the requirement that payment may be made for medical assistance only with respect to amounts expended by the State for care and services described in paragraph (1) of section 2171(a) and medically-related services (as defined in section 2112(e)(2)).

''SEC. 2173. DESCRIPTION OF TREATMENT OF INDIAN HEALTH SERVICE FACILITIES.

''In the case of a State in which one or more facilities of the Indian Health Service are located, the MediGrant plan shall include a description of—

''(1) what provision (if any) has been made for payment for items and services furnished by such facilities, and

''(2) the manner in which medical assistance for low-income eligible individuals who are Indians will be provided, as determined by the State in consultation with the appropriate Indian tribes and tribal organizations.

''SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVISIONS.

''The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX:

''(1) Section 1101(a)(1) (relating to definition of State).

''(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part C.

''(3) Section 1124 (relating to disclosure of ownership and related information).

''(4) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).

''(6) Section 1132 (relating to periods within which claims must be filed).

''SEC. 2175. MEDIGRANT MASTER DRUG REBATE AGREEMENTS.

''(a) REQUIREMENT FOR MANUFACTURER TO ENTER INTO AGREEMENT.—

''(1) IN GENERAL.—Pursuant to section 2123(f), in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer shall enter into and have in effect an MediGrant master rebate agreement described in subsection (b) with the Secretary on behalf of States electing to participate in the agreement.

''(2) STATE PARTICIPATION IN MASTER AGREEMENT OPTIONAL.—Nothing in this section shall be construed to—

''(A) require a State to participate in an MediGrant master rebate agreement under this section; or

''(B) prohibit a State from entering into an agreement with a manufacturer of covered outpatient drugs (under such terms as the State and manufacturer may agree upon) regarding the amount of payment for such drugs under the MediGrant plan.

''(3) COVERAGE OF DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Nothing in this section shall be construed to prohibit a State in its discretion from providing coverage under its MediGrant plan of a covered outpatient drug for which no rebate agreement is in effect under this section.

''(4) EFFECT ON EXISTING AGREEMENTS.—If a State has a rebate agreement in effect with a manufacturer on the date of the enactment of this section which provides for a minimum aggregate rebate equal to or greater than the minimum aggregate rebate which would otherwise be paid under the MediGrant master agreement under this section, at the option of the State—

''(A) such agreement shall be considered to meet the requirements of the MediGrant master rebate agreement; and

''(B) the State shall be considered to have elected to participate in the MediGrant master rebate agreement.

''(b) TERMS OF REBATE AGREEMENT.—

''(1) PERIODIC REBATES.—The MediGrant master rebate agreement under this section shall require the manufacturer to provide, to the MediGrant plan of each State participating in the agreement, a rebate for a rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed after the effective date of the agreement, for which payment was made under the plan for such period. Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

''(2) STATE PROVISION OF INFORMATION.—

''(A) STATE RESPONSIBILITY.—Each State participating in the MediGrant master rebate agreement shall report to each manufacturer not later than 60 days after the end of each rebate period and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength and package size of each covered outpatient drug, for which payment was made under the MediGrant plan for the period, and shall promptly transmit a copy of such report to the Secretary.

''(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

''(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

''(A) IN GENERAL.—Each manufacturer which is subject to the MediGrant master rebate agreement under this section shall report to the Secretary—

''(i) not later than 30 days after the last day of each rebate period under the agreement (beginning on or after January 1, 1991), on the average manufacturer price (as defined in subsection (i)(1)) and, for single source drugs and innovator multiple source drugs, the manufacturer's best price (as defined in subsection (c)(1)(C)) for each covered outpatient drug for the rebate period under the agreement, and

''(ii) not later than 30 days after the date of entering into an agreement under this section, on the average manufacturer price (as defined in subsection (i)(1)) as of October 1, 1990, for each of the manufacturer's covered outpatient drugs.

''(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information by the Secretary in connection with a survey under this subparagraph. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(C) PENALTIES.—

''(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer which is subject to the MediGrant master rebate agreement that fails to provide information required under subparagraph (A) on a timely basis, the amount of the penalty shall be $10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury. If such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

''(ii) FALSE INFORMATION.—Any manufacturer which is subject to the MediGrant master rebate agreement, or a wholesaler or direct seller, that knowingly provides false information under subparagraph (A) or (B) is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Any such civil money penalty shall be in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph or under an agreement with the Secretary of Veterans Affairs described in section 2123(f) is confidential and shall not be disclosed by the

Secretary or the Secretary of Veterans Affairs or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler or the prices charged for drugs by such manufacturer or wholesaler, except—

''(i) as the Secretary determines to be necessary to carry out this section,

''(ii) to permit the Comptroller General to review the information provided, and

''(iii) to permit the Director of the Congressional Budget Office to review the information provided.

''(4) LENGTH OF AGREEMENT.—

''(A) IN GENERAL.—The MediGrant master rebate agreement under this section shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

''(B) TERMINATION.—

''(i) BY THE SECRETARY.—The Secretary may provide for termination of the MediGrant master rebate agreement with respect to a manufacturer for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination. Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.

''(ii) BY A MANUFACTURER.—A manufacturer may terminate its participation in the MediGrant master rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

''(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

''(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

''(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of master agreements described in section 8126(a) of title 38, United States Code.

''(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

''(c) DETERMINATION OF AMOUNT OF REBATE.—

''(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

''(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period (as defined in subsection (i)(8)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

''(i) the total number of units of each dosage form and strength paid for under the State plan in the rebate period (as reported by the State); and

''(ii) the greater of—

''(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

''(II) the minimum rebate percentage (specified in subparagraph (B)) of such average manufacturer price,

for the rebate period.

''(B) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the 'minimum rebate percentage' is 15.1 percent.

''(C) BEST PRICE DEFINED.—For purposes of this section—

''(i) IN GENERAL.—The term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding—

''(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in section 340B(a)(4) of the Public Health Service Act;

''(II) any prices charged under the Federal Supply Schedule of the General Services Administration;

''(III) any prices used under a State pharmaceutical assistance program; and

''(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

''(ii) SPECIAL RULES.—The term 'best price'—

''(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume discounts, and rebates (other than rebates under this section);

''(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package;

''(III) shall not take into account prices that are merely nominal in amount; and

''(IV) shall exclude rebates paid under this section or any other rebates paid to a State participating in the MediGrant master rebate agreement.

''(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

''(A) IN GENERAL.—The amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, shall be increased by an amount equal to the product of—

''(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the MediGrant plan for the rebate period; and

''(ii) the amount (if any) by which—

''(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

''(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary of the manufacturer, after the first day of such quarter), increased by the percentage by which the consumer price index for all urban consumers (United States city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.

''(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, clause (ii)(II) of subparagraph (A) shall be applied by substituting 'the first full calendar quarter after the day on which the drug was first marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the day on which the drug was first marketed' for 'September 1990'.

''(3) REBATE FOR OTHER DRUGS.—

''(A) IN GENERAL.—The amount of the rebate paid to a State participating in the MediGrant master rebate agreement for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

''(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the rebate period, and

''(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the MediGrant plan for the rebate period.

''(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' is 11 percent.

''(4) LIMITATION ON AMOUNT OF REBATE TO AMOUNTS PAID FOR CERTAIN DRUGS.—Upon request of a manufacturer of a covered outpatient drug for which a majority of the estimated number of units of such dosage form and strength that are subject to rebates under this section were dispensed to inpatients of nursing facilities (including drugs which are exempt from the requirements of the MediGrant master rebate agreement under this section under subsection (h)(1)(B)), the Secretary shall limit the amount of the rebate under this subsection with respect to a dosage form and strength of the drug for a rebate period to the amount paid under the MediGrant plan with respect to such dosage form and strength of the drug in the rebate period (without consideration of any dispensing fees paid).

''(d) LIMITATIONS ON COVERAGE OF DRUGS BY STATES PARTICIPATING IN MASTER AGREEMENT.—

''(1) PERMISSIBLE RESTRICTIONS.—A State participating in the MediGrant master rebate agreement under this section may—

''(A) subject to prior authorization under its MediGrant plan any covered outpatient drug so long as any such prior authorization program complies with the requirements of paragraph (5); and

''(B) exclude or otherwise restrict coverage under its plan of a covered outpatient drug if—

''(i) the prescribed use is not for a medically accepted indication (as defined in subsection (i)(5));

''(ii) the drug is contained in the list referred to in paragraph (2);

''(iii) the drug is subject to such restrictions pursuant to the MediGrant master rebate agreement or any agreement described in subsection (a)(4); or

''(iv) the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).

''(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted by a State participating in the MediGrant master rebate agreement:

''(A) Agents when used for anorexia, weight loss, or weight gain.

''(B) Agents when used to promote fertility.

''(C) Agents when used for cosmetic purposes or hair growth.

''(D) Agents when used for the symptomatic relief of cough and colds.

''(E) Agents when used to promote smoking cessation.

''(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

''(G) Nonprescription drugs.

''(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

''(I) Barbiturates.

''(J) Benzodiazepines.

''(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.

''(4) REQUIREMENTS FOR FORMULARIES.—A State participating in the MediGrant master rebate agreement may establish a formulary if the formulary meets the following requirements:

''(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State.

''(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with the agreement under subsection (a) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)).

''(C) A covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (i)(5)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.

''(D) The State plan permits coverage of a drug excluded from the formulary (other than any drug excluded from coverage or otherwise restricted under paragraph (2)) pursuant to a prior authorization program that is consistent with paragraph (5).

''(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

''(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—The MediGrant plan of a State participating in the MediGrant master rebate agreement may require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (i)(5)) only if the system providing for such approval—

''(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

''(B) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

''(6) OTHER PERMISSIBLE RESTRICTIONS.—A State participating in the MediGrant master rebate agreement may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse by individuals in any manner authorized under this Act.

''(e) DRUG USE REVIEW.—

''(1) IN GENERAL.—A State participating in the MediGrant master rebate agreement may provide for a drug use review program to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.

''(2) APPLICATION OF STATE STANDARDS.—A State with a drug use review program under this subsection shall establish and operate the program under such standards as it may establish.

''(f) ELECTRONIC CLAIMS MANAGEMENT.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State to establish, as its principal means of processing claims for covered outpatient drugs under its MediGrant plan, a point-of-sale electronic claims management system, for the purpose of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

''(g) ANNUAL REPORT.—

''(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall transmit to the Committee on Finance of the Senate, the Committee on Commerce of the House of Representatives, and the Committee on Aging of the Senate a report on the operation of this section in the preceding fiscal year.

''(2) DETAILS.—Each report shall include information on—

''(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs;

''(B) the total value of rebates received and number of manufacturers providing such rebates;

''(C) the effect of inflation on the value of rebates required under this section;

''(D) trends in prices paid under this title for covered outpatient drugs; and

''(E) Federal and State administrative costs associated with compliance with the provisions of this title.

''(h) EXEMPTION FOR CAPITATED HEALTH CARE ORGANIZATIONS, HOSPITALS, AND NURSING FACILITIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of the MediGrant master rebate agreement under this section shall not apply with respect to covered outpatient drugs dispensed by or through—

''(A) a capitated health care organization (as defined in section 2114(c)(1)); or

''(B) a hospital or nursing facility that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's purchasing costs for covered outpatient drugs.

''(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.

''(i) DEFINITIONS.—In the section—

''(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a rebate period, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.

''(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in subparagraph (D), the term 'covered outpatient drug' means—

''(A) of those drugs which are treated as prescribed drugs for purposes of section 2171(a)(1)(H), a drug which may be dispensed only upon prescription (except as provided in paragraph (7)), and—

''(i) which is approved as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act;

''(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

''(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling;

''(B) a biological product, other than a vaccine which—

''(i) may only be dispensed upon prescription,

''(ii) is licensed under section 351 of the Public Health Service Act, and

''(iii) is produced at an establishment licensed under such section to produce such product;

''(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act; and

''(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).

''(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made under a MediGrant plan as part of payment for the following and not as direct reimbursement for the drug):

''(A) Inpatient hospital services.
''(B) Hospice services.
''(C) Dental services, except that drugs for which the MediGrant plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.
''(D) Physicians' services.
''(E) Outpatient hospital services.
''(F) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.
''(G) Other laboratory and x-ray services.
''(H) Renal dialysis services.

Such term also does not include any such drug or product for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used for a medical indication which is not a medically accepted indication. Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in subsection (c)(1)(C)) for such drug, biological product, or insulin.

''(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.

''(5) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

''(A) American Hospital Formulary Service Drug Information.
''(B) United States Pharmacopeia-Drug Information.
''(C) American Medical Association Drug Evaluations.
''(D) The peer-reviewed medical literature.

''(6) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

''(A) DEFINED.—

''(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a rebate period, a covered outpatient drug (not including any drug described in paragraph (2)(D)) for which there are 2 or more drug products which—

''(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

''(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

''(III) are sold or marketed in the State during the period.

''(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application or product licensing application approved by the Food and Drug Administration.

''(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

''(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

''(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

''(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

''(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, if the listed product is generally available to the public through retail pharmacies in that State.

''(7) NONPRESCRIPTION DRUGS.—If the MediGrant plan of a State participating in the MediGrant master rebate agreement under this section includes coverage of prescribed drugs as described in section 2171(a)(1)(H) and permits coverage of drugs which may be sold without a prescription (commonly referred to as 'over-the-counter' drugs), if they are prescribed by a physician (or other person authorized to prescribe under State law), such a drug shall be regarded as a covered outpatient drug for purposes of the State's participation in the agreement.

''(8) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.''.

SEC. 16002. TERMINATION OF CURRENT PROGRAM AND TRANSITION.

(a) TERMINATION OF CURRENT PROGRAM; LIMITATION ON MEDICAID PAYMENTS IN FISCAL YEAR 1996.—Title XIX of the Social Security Act is amended—

(1) by redesignating section 1931 as section 1932; and

(2) by inserting after section 1930 the following new section:

''TERMINATION OF MEDICAID PROGRAM; LIMITATION ON NEW OBLIGATION AUTHORITY

''SEC. 1931. (a) ELIMINATION OF INDIVIDUAL ENTITLEMENT.—Effective on the date of the enactment of this section—

''(1) except as provided in subsection (b), the Federal Government has no obligation to provide payment with respect to items and services provided under this title, and

''(2) this title shall not be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person (including any provider) at the time of provision or receipt of services.

''(b) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of this title—

''(1) POST-ENACTMENT, PRE-MEDIGRANT.—Subject to paragraph (2), the Secretary is authorized to enter into obligations with any State under this title for expenses incurred after the date of the enactment of this Act and during fiscal year 1996, but not in excess of the obligation allotment for that State for fiscal year 1996 under section 2121(b)(4).

''(2) NONE AFTER MEDIGRANT.—The Secretary is not authorized to enter into any obligation with any State under this title for expenses incurred on or after the earlier of—

''(A) October 1, 1996; or

''(B) the first day of the first quarter on which the State plan under title XXI is first effective.

''(3) AGREEMENT.—A State's submission of claims for payment under section 1903 after the date of the enactment of this title with respect to which the limitation described in paragraph (1) applies is deemed to constitute the State's acceptance of the obligation limitation under such paragraph (including the formula for computing the amount of such obligation limitation).

''(c) REQUIREMENT FOR TIMELY SUBMITTAL OF CLAIMS.—No payment shall be made to a State under this title with respect to an obligation incurred before the date of the enactment of this section, unless the State has submitted to the Secretary, by not later than June 30, 1996, a claim for Federal financial participation for expenses paid by the State with respect to such obligations. Nothing in subsection (a) or (b) shall be construed as affecting the obligation of the Federal Government to pay claims described in the previous sentence.''.

(b) MEDICAID TRANSITION.—

(1) TREATMENT OF CERTAIN CAUSES OF ACTION.—No cause of action under title XIX of the Social Security Act which seeks to require a State to establish or maintain minimum payment rates under such title and which has not become final as of the date of the enactment of this Act shall be brought or continued.

(2) TREATMENT OF CERTAIN DISALLOWANCES.—Notwithstanding any provision of law, in the case where payment has been made under section 1903(a) of the Social Security Act to a State before October 1, 1995, and for which a disallowance has not been taken as of such date (or, if so taken, has not been completed by such date), the Secretary of Health and Human Services shall discontinue the disallowance proceeding and, if such disallowance has been taken as of the date of the enactment of this Act, any payment reductions effected shall be rescinded and the payments returned to the State.

(3) EXTENSION OF MORATORIUM.—Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking ''December 31, 1995'' and inserting ''the first day of the first quarter on which the MediGrant plan for the State of Michigan is first effective under title XXI of such Act''.

(c) NO APPLICATION OF PRIOR MEDICAID JUDGMENTS TO MEDIGRANT PROGRAM.—No judicial or administrative decision rendered regarding requirements imposed under title XIX of the Social Security Act with respect to a State shall have any application to the MediGrant plan of the State title XXI of such Act. A State may, pursuant to the previous sentence, seek the abrogation or modification of any such decision after the date of termination of the State plan under title XIX of such Act.

(d) TERMINATION OF PROGRAM FOR DISTRIBUTION OF PEDIATRIC VACCINES

(1) IN GENERAL.—Subject to paragraph (2), section 1928 of the Social Security Act (42 U.S.C. 1396s) is repealed, effective on the date of the enactment of this Act.

(2) TRANSITION.—(A) Such repeal shall not affect the distribution of vaccines purchased and delivered to the States before the date of the enactment of this Act.

(B) No vaccine may be purchased after such date by the Federal Government or any State under any contract under section 1928(d) of the Social Security Act.

(e) ANTI-FRAUD PROVISIONS.—

(1) IN GENERAL.—Section 1128(h)(1) of the Social Security Act (42 U.S.C. 1320a–7(h)(1)) is amended by inserting ''or a MediGrant plan under title XXI'' after ''title XIX''.

(2) CONTINUED ROLE OF INSPECTOR GENERAL.—The Inspector General in the Department of Health and Human Services shall have the same responsibilities and duties in relation to fraud and abuse and related matters under the MediGrant program under title XXI of the Social Security Act as such Inspector General has had in relation to the medicaid program under title XIX of such Act before the date of the enactment of this Act.

(f) FINAL EXTENSION OF MEDICAID WAIVER FOR DAYTON AREA HEALTH PLAN.—Section 2 of Public Law 102–276, as amended by section 13644 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking ''December 31, 1995'' and inserting ''the last day of the last calendar quarter in which a State medicaid plan is in effect in Ohio under title XIX of the Social Security Act''.

TITLE XVII—ABOLISHMENT OF DEPARTMENT OF COMMERCE

SEC. 17001. SHORT TITLE.

This title may be cited as the ''Department of Commerce Dismantling Act''.

SEC. 17002. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Subtitle A—Abolishment of Department of Commerce

SEC. 17101. ABOLISHMENT OF DEPARTMENT OF COMMERCE.

(a) ABOLISHMENT OF DEPARTMENT.—The Department of Commerce is abolished effective on the abolishment date specified in subsection (c).

(b) TRANSFER OF DEPARTMENT FUNCTIONS TO OMB.—Except as otherwise provided in this title, all functions that immediately before the abolishment date specified in subsection (c) are authorized to be performed by the Secretary of Commerce, any other officer or employee of the Department acting in that capacity, or any agency or office of the Department, are transferred to the Director of the Office of Management and Budget effective on that abolishment date.

(c) ABOLISHMENT DATE.—The abolishment date referred to in subsections (a) and (b) is the earlier of—

(1) the last day of the 6-month period beginning on the date of the enactment of this Act; or

(2) September 30, 1996.

SEC. 17102. RESOLUTION AND TERMINATION OF DEPARTMENT FUNCTIONS.

(a) RESOLUTION OF FUNCTIONS.—During the period beginning on the date of enactment of this Act and ending on the functions termination date specified in subsection (c)—

(1) the disposition and resolution of functions of the Department of Commerce shall be completed in accordance with this title; and

(2) the Director shall resolve all functions that are transferred to the Director under section 17101(b) and are not otherwise continued under this title.

(b) TERMINATION OF FUNCTIONS.—All functions that are transferred to the Director under section 17101(b) that are not otherwise continued by this title shall terminate on the functions termination date specified in subsection (c).

(c) FUNCTIONS TERMINATION DATE.—The functions termination date referred to in subsections (a) and (b) is the last day of the 3-year period beginning on the date of the enactment of this Act.

SEC. 17103. RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

The Director of the Office of Management and Budget, acting through the Administrator of the Office of Programs Resolution, shall be responsible for the implementation of this subtitle, including—

(1) the administration and wind-up, during the wind-up period, of all functions transferred to the Director under section 17101(b);

(2) the administration and wind-up, during the wind-up period, of any outstanding obligations of the Federal Government under any programs terminated by this title; and

(3) taking such other actions as may be necessary to wind-up any outstanding affairs of the Department of Commerce before the end of the wind-up period.

SEC. 17104. OFFICE OF PROGRAMS RESOLUTION.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Office of Management and Budget an office to be known as the Office of Programs Resolution.

(b) ADMINISTRATOR.—There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Administrator shall serve as principal adviser to the Director on Government organization and reorganization matters, and shall report directly to the Director.

(c) FUNCTIONS.—The Administrator shall perform such functions as are vested in the Administrator by this title or delegated to the Administrator by the Director.

(d) AUTHORITIES OF THE ADMINISTRATOR.—For purposes of performing the functions of the Administrator under subsection (c) and subject to the availability of appropriations, the Administrator may—

(1) enter into contracts;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule; and

(3) utilize, on a reimbursable basis, the services, facilities, and personnel of other Federal agencies.

(e) AUDITOR GENERAL.—

(1) IN GENERAL.—There shall be in the Office an Auditor General, who shall be appointed by and report to the Administrator.

(2) FUNCTIONS.—The Auditor General shall—

(A) conduct audits and investigations with respect to activities of the Office; and

(B) submit to the Administrator and the Director reports on the findings of those audits and investigations.

(f) REORGANIZATION.—The Administrator may allocate or reallocate among the officers of the Office any function vested in the Administrator or the Office, and may establish, consolidate, alter, or discontinue in the Office any organizational entities that were entities of the Department of Commerce, as the Administrator considers necessary or appropriate.

(g) ANNUAL AUTHORIZATION REQUIRED.—No sums may be appropriated for any fiscal year for the Office except as specifically authorized for that fiscal year by law.

SEC. 17105. PERSONNEL.

Effective on the abolishment date specified in section 17101(c), there are transferred to the Office all individuals who—

(1) immediately before the abolishment date, were officers or employees of the Department of Commerce; and

(2) in their capacity as such an officer or employee, performed functions that are transferred to the Director under section 17101(b).

SEC. 17106. PLANS AND REPORTS.

(a) INITIAL IMPLEMENTATION PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director shall submit a report, through the President, to the Congress specifying those actions taken and necessary to be taken—

(A) to resolve those programs and functions terminated on the date of enactment of this Act; and

(B) to implement the additional transfers and other program dispositions provided for in this title.

(2) CONTENTS.—The report shall include—

(A) a description of the anticipated size and composition of the Programs Resolution Office,

(B) recommendations for additional legislation, if any, needed to reflect or otherwise to implement the abolishments, transfers, terminations, and other dispositions of programs and functions under this title; and

(C) a description of actions planned and taken to comply with limitations imposed by this Act on future spending for continued functions.

(b) ANNUAL STATUS REPORTS.—At the end of each of the first, second, and third years following the date of enactment of this Act, the Director shall submit a report, through the President, to the Congress which—

(1) specifies the status and progress of actions taken to implement this title and to wind-up the affairs of the Department of Commerce by the functions termination date specified in section 17102(c);

(2) includes a summary of reports submitted to the Director under section 17104(e)(2)(B) during the period covered by the report by the Auditor General of the Office;

(3) includes any recommendations the Director may have for additional legislation; and

(4) describes actions taken to comply with limitations imposed by this Act on future spending for continued functions.

(c) GAO REPORTS.—Not later than 60 days after issuance of each report under subsections (a) and (b), the Comptroller General of the United States shall submit to the Congress a report which—

(1) evaluates the report under that subsection; and

(2) includes any recommendations the Comptroller General considers appropriate.

SEC. 17107. GAO AUDIT AND ACCESS TO RECORDS.

(a) AUDIT OF PERSONS PERFORMING FUNCTIONS PURSUANT TO THIS ACT.—All agencies, corporations, organizations, and other persons of any description which under the authority of the United States perform any function or activity pursuant to this title shall be subject to audit by the Comptroller General of the United States with respect to such function or activity.

(b) AUDIT OF PERSONS PROVIDING CERTAIN GOODS OR SERVICES.—All persons and organizations which, by contract, grant, or otherwise, provide goods or services to, or receive financial assistance from, any agency or other person performing functions or activities under or referred to by this title shall be subject to audit by the Comptroller General of the United States with respect to such provision of goods or services or receipt of financial assistance.

(c) PROVISIONS APPLICABLE TO AUDITS UNDER THIS SECTION.—

(1) NATURE AND SCOPE OF AUDIT.—The Comptroller General of the United States shall determine the nature, scope, terms, and conditions of audits conducted under this section.

(2) COORDINATION WITH OTHER PROVISIONS OF LAW.—The authority of the Comptroller General of the United States under this section shall be in addition to any audit authority available to the Comptroller General under other provisions of this title or any other law.

(3) RIGHTS OF ACCESS, EXAMINATION, AND COPYING.—The Comptroller General of the United States, and any duly authorized representative of the Comptroller General, shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property within the possession or control of any agency or person which is subject to audit under this section, which the Comptroller General considers relevant to an audit conducted under this section.

(4) ENFORCEMENT OF RIGHT OF ACCESS.—The right of access of the Comptroller General of the United States to information under this section shall be enforceable under section 716 of title 31, United States Code.

(5) MAINTENANCE OF CONFIDENTIAL RECORDS.—Section 716(e) of title 31, United States Code, shall apply to information obtained by the Comptroller General under this section.

SEC. 17108. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by striking ''Secretary of Commerce,''.

(b) EXECUTIVE DEPARTMENTS.—Section 101 of title 5, United States Code, is amended by striking the following item: ''The Department of Commerce.''.

(c) SECRETARY'S COMPENSATION.—Section 5312 of title 5, United States Code, is amended by striking the following item: ''Secretary of Commerce.''.

(d) COMPENSATION FOR POSITIONS AT LEVEL III.—Section 5314 of title 5, United States Code, is amended—

(1) by striking the following item:

''Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration and Under Secretary of Commerce for Travel and Tourism.'';

(2) by striking the following item:

''Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.'';

(3) by striking the following item:

''Under Secretary of Commerce for Technology.''; and

(4) by adding at the end the following item:

''Administrator, Office of Programs Resolution''.

(e) COMPENSATION FOR POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking the following item:

''Assistant Secretaries of Commerce (11).'';

(2) by striking the following item:

''General Counsel of the Department of Commerce.'';

(3) by striking the following item:

''Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration.'';

(4) by striking the following item:

''Director, National Institute of Standards and Technology, Department of Commerce.'';

(5) by striking the following item:

''Inspector General, Department of Commerce.'';

(6) by striking the following item:

''Chief Financial Officer, Department of Commerce.''; and

(7) in the item relating to the Bureau of the Census, by striking '', Department of Commerce''.

(f) COMPENSATION FOR POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended—

(1) by striking the following item:

''Director, United States Travel Service, Department of Commerce.''; and

(2) by striking the following item:

''National Export Expansion Coordinator, Department of Commerce.''.

(g) INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 9(a)(1), by striking subparagraph (B);

(2) in section 11(1), by striking ''Commerce,''; and

(3) in section 11(2), by striking ''Commerce,''.

(h) EFFECTIVE DATE.—The amendments made by this section shall be effective on the abolishment date specified in section 17101(c).

SEC. 17109. PRIVATIZATION FRAMEWORK.

(a) IN GENERAL.—The Office of Management and Budget shall privatize each function designated for privatization under subtitle B within 18 months of the date the transfer of such function to the Office. The Office shall pursue such forms of privatization arrangements as the Office considers appropriate to best serve the interests of the United States. If the Office is unable to privatize a function within 18 months, the Office shall report its inability to the Congress with its recommendations as to the appropriate disposition of the function and its assets.

(b) ROLE OF THE FEDERAL GOVERNMENT.—No privatization arrangement made under subsection (a) shall include any future role for, or accountability to, the Federal Government unless it is necessary to assure the continued accomplishment of a specific Federal objective. The Federal role should be the minimum necessary to accomplish Federal objectives.

(c) ASSETS.—In privatizing a function, the Office of Management and Budget shall take any action necessary to preserve the value of the assets of a function during the period the Office holds such assets and to continue the performance of the function to the extent necessary to preserve the value of the assets or to accomplish core Federal objectives.

SEC. 17110. PRIORITY PLACEMENT PROGRAMS FOR FEDERAL EMPLOYEES AFFECTED BY A REDUCTION IN FORCE ATTRIBUTABLE TO THIS TITLE.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3329b. Priority placement programs for employees affected by a reduction in force attributable to the Department of Commerce Dismantling Act

''(a)(1) For the purpose of this section, the term 'affected agency'—

''(A) except as provided in subparagraph (B), means an Executive agency to which personnel are transferred in connection with a transfer of function under the Department of Commerce Dismantling Act, and

''(B) with respect to employees of the Department of Commerce in general administration, the Inspector General's office, or the General Council's office, or who provided overhead support to other components of the Department on a reimbursable basis, means all agencies to which functions of those employees are transferred under the Department of Commerce Dismantling Act.

''(2) This section applies with respect to any reduction in force that—

''(A) occurs within 12 months after the date of the enactment of this section; and

''(B) is due to—

''(i) the termination of any function of the Department of Commerce or the Office of Programs Resolution, as the case may be; or

''(ii) the agency's having excess personnel as a result of a transfer of function described in paragraph (1), as determined by—

''(I) the Administrator of the Office of Programs Resolution, in the case of a function transferred to the Office of Management and Budget; or

''(II) the head of the agency, in the case of any other function.

''(b) As soon as practicable after the date of the enactment of this section, each affected agency shall establish an agencywide priority placement program to facilitate employment placement for employees who—

''(1) are scheduled to be separated from service due to a reduction in force described in subsection (a)(2); or

''(2) are separated from service due to such a reduction in force.

''(c)(1) Each agencywide priority placement program shall include provisions under which a vacant position shall not be filled by the appointment or transfer of any individual from outside of that agency if—

''(A) there is then available any individual described in paragraph (2) who is qualified for the position; and

''(B) the position—

''(i) is at the same grade (or pay level) or not more than 1 grade (or pay level) below that of the position last held by such individual before placement in the new position; and

''(ii) is within the same commuting area as the individual's last-held position (as referred to in clause (i)) or residence.

''(2) For purposes of an agencywide priority placement program, an individual shall be considered to be described in this paragraph if such individual's most recent performance evaluation was at least fully successful (or the equivalent), and such individual is either—

''(A) an employee of such agency who is scheduled to be separated, as described in subsection (b)(1); or

''(B) an individual who became a former employee of such agency as a result of a separation, as described in subsection (b)(2).

''(d)(1) Nothing in this section shall affect any priority placement program of the Department of Defense which is in operation as of the date of the enactment of this section.

''(2) Nothing in this section shall impair placement programs within agencies subject to reductions in force resulting from causes other than the Department of Commerce Dismantling Act.

''(e) An individual shall cease to be eligible to participate in a program under this section on the earlier of—

''(1) the conclusion of the 12-month period beginning on the date on which that individual first became eligible to participate under subsection (c)(2); or

''(2) the date on which the individual declines a bona fide offer (or if the individual does not act on the offer, the last day for accepting such offer) from the affected agency of a position described in subsection (c)(1)(B).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Title 5, United States Code, is amended by redesignating the second section which is designated as section 3329 as section 3329a.

(2) The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to the second section which is designated as section 3329 and inserting the following:

''3329a. Government-wide list of vacant positions.
''3329b. Priority placement programs for employees affected by a reduction in force attributable to the Department of Commerce Dismantling Act.''.

SEC. 17111. FUNDING REDUCTIONS FOR TRANSFERRED FUNCTIONS.

(a) FUNDING REDUCTIONS.—Except as provided in subsection (b), for each fiscal year that begins on or after the date of the enactment of this Act, the total amount obligated or expended by the United States in performing functions transferred under this title to the Director or to the Office from the Department of Commerce, or any of its officers or components, may not exceed 75 percent of the total amount obligated or expended by the United States in performing such functions for fiscal year 1995.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) functions transferred to the Director under section 17203 (relating to the Bureau of the Census); or

(2) obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in subsection (a) pursuant to this title.

(c) RULE OF CONSTRUCTION.—This section shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(d) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(1) ensure compliance with the requirements of this section; and

(2) include in each report under sections 17106 (a) and (b) a description of actions taken to comply with such requirements.

SEC. 17112. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Office of Programs Resolution.

(2) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(3) OFFICE.—The term ''Office'' means the Office of Programs Resolution.

(4) WIND-UP PERIOD.—The term ''wind-up period'' means the period beginning on the date of the enactment of this Act and ending on the functions termination date specified in section 17102(c).

Subtitle B—Disposition of Various Programs, Functions, and Agencies of Department of Commerce

SEC. 17201. ABOLISHMENT OF ECONOMIC DEVELOPMENT ADMINISTRATION AND TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—The Public Works and Economic Development Act of 1965 (40 U.S.C. 3131 et seq.) is amended by striking all after the first section and inserting the following:

"SEC. 2. ADMINISTRATOR DEFINED.

''In this Act, the term 'Administrator' means the Administrator of the Small Business Administration.

"TITLE I—STATEMENT OF PURPOSE

"SEC. 101. FINDINGS AND DECLARATION.

''(a) FINDINGS.—Congress finds that—

''(1) the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment and underemployment that cause hardship to many individuals and their families, and waste invaluable human resources;

''(2) to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development;

''(3) Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions, if such assistance is preceded by and consistent with sound, long-range economic planning; and

''(4) under the provisions of this Act, new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another.

''(b) DECLARATION.—Congress declares that, in furtherance of maintaining the national economy at a high level—

''(1) the assistance authorized by this Act should be made available to both rural and urban areas;

''(2) such assistance should be made available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and

''(3) such assistance should be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.

''TITLE II—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

''SEC. 201. DIRECT AND SUPPLEMENTARY GRANTS.

''(a) IN GENERAL.—Upon the application of any eligible recipient, the Administrator may—

''(1) make direct grants for the acquisition or development of land and improvements for public works, public service, or development facility usage, and the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within an area described in section 502(a), if the Administrator finds that—

''(A) the project for which financial assistance is sought will directly or indirectly—

''(i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

''(ii) otherwise assist in the creation of additional long-term employment opportunities for such area; or

''(iii) primarily benefit the long-term unemployed and members of low-income families;

''(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located; and

''(C) the area for which a project is to be undertaken has an approved investment strategy as provided by section 503 and such project is consistent with such strategy;

''(2) make supplementary grants in order to enable the States and other entities within areas described in section 502(a) to take maximum advantage of designated Federal grant-in-aid programs (as defined in subsection (c)(4)), direct grants-in-aid authorized under this section, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666), and the 11 watersheds authorized by the Flood Control Act of December 22, 1944 (58 Stat. 887), for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

''(b) COST SHARING.—Subject to subsection (c), the amount of any direct grant under this subsection for any project shall not exceed 50 percent of the cost of such project.

''(c) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

''(1) AMOUNT OF SUPPLEMENTARY GRANTS.—

''(A) IN GENERAL.—Except as provided by subparagraph (B), the amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Administrator, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 percent of such cost.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), in the case of an Indian tribe, a State (or a political subdivision of the State), or a community development corporation which the Administrator determines has exhausted its effective taxing and borrowing capacity, the Administrator shall reduce the non-Federal share below the percentage specified in subparagraph (A) or shall waive the non-Federal share in the case of such a grant for a project in an area described in section 502(a)(4).

''(2) FORM OF SUPPLEMENTARY GRANTS.—Supplementary grants shall be made by the Administrator, in accordance with such regulations as the Administrator may prescribe, by increasing the amounts of direct grants authorized under this section or by the payment of funds appropriated under this Act to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs.

''(3) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection shall be used for the sole purpose of increasing the Federal contribution to specific projects in areas described in section 502(a) under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law.

''(4) DESIGNATED FEDERAL GRANT-IN-AID PROGRAMS DEFINED.—In this subsection, the term 'designated Federal grant-in-aid programs' means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Administrator may, in furtherance of the purposes of this Act, designate as eligible for allocation of funds under this section.

''(5) CONSIDERATION OF RELATIVE NEED IN DETERMINING AMOUNT.—In determining the amount of any supplementary grant available to any project under this section, the Administrator shall take into consideration the relative needs of the area and the nature of the projects to be assisted.

''(d) REGULATIONS.—The Administrator shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the Administrator shall consider among other relevant factors—

''(1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment; and

''(2) the income levels of families and the extent of underemployment in eligible areas.

''(e) REVIEW AND COMMENT UPON PROJECTS BY LOCAL GOVERNMENTAL AUTHORITIES.—The Administrator shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section.

''SEC. 202. CONSTRUCTION COST INCREASES.

''In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Administrator, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.

''SEC. 203. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

''In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project, and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has decreased because of decreases in costs, such underrun funds may be used to improve the project either directly or indirectly as determined by the Administrator.

''SEC. 204. CHANGED PROJECT CIRCUMSTANCES.

''In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project, and after such grant has been made but before completion of the project, the purpose or scope of such project based upon the designs and specifications which were the basis of the grant has changed, the Administrator may approve the use of grant funds on such changed project if the Administrator determines that such changed project meets the requirements of this title and that such changes are necessary to enhance economic development in the area.

''TITLE III—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

''SEC. 301. STATEMENT OF PURPOSE.

''The purpose of this title to provide special economic development and adjustment assistance programs to help State and local areas meet special needs arising from actual or threatened severe unemployment arising from economic dislocation (including unemployment arising from actions of the Federal Government, from defense base closures and realignments, and from compliance with environmental requirements which remove economic activities from a locality) and economic adjustment problems resulting from severe changes in economic conditions (including long-term economic deterioration), and to encourage cooperative intergovernmental action to prevent or solve economic adjustment problems. Nothing in this title is intended to replace the efforts of the economic adjustment program of the Department of Defense.

''SEC. 302. SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE.

''(a) IN GENERAL.—The Administrator is authorized to make grants directly to any eligible recipient in an area which the Administrator determines, in accordance with criteria to be established by the Administrator by regulation—

''(1) has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government); or

''(2) has demonstrated long-term economic deterioration.

''(b) PURPOSES.—Amounts from grants under subsection (a) shall be used by an eligible recipient to carry out or develop an investment strategy which—

''(1) meets the requirements of section 503; and

''(2) is approved by the Administrator.

''(c) TYPES OF ASSISTANCE.—In carrying out an investment strategy using amounts from grants under subsection (a), an eligible recipient may provide assistance for any of the following:

''(1) Public facilities.

''(2) Public services.

''(3) Business development.

''(4) Planning.

''(5) Research and technical assistance.

''(6) Administrative expenses.

''(7) Training.

''(8) Relocation of individuals and businesses.

''(9) Other assistance which demonstrably furthers the economic adjustment objectives of this title.

''(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.—Amounts from grants under subsection (a) may be used in direct expenditures by the eligible recipient or through redistribution by the eligible recipient to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profit-making entity.

''(e) COORDINATION.—The Administrator to the extent practicable shall coordinate the activities relating to the requirements for investment strategies and making grants and loans under this title with other Federal programs, States, economic development districts, and other appropriate planning and development organizations.

''(f) BASE CLOSINGS AND REALIGNMENTS.—

''(1) LOCATION OF PROJECTS.—In any case in which the Administrator determines a need for assistance under subsection (a) due to the closure or realignment of a military installation, the Administrator may make such assistance available for projects to be carried out on the military installation and for projects to be carried out in communities adversely affected by the closure or realignment.

''(2) INTEREST IN PROPERTY.—Notwithstanding any other provision of law, the Administrator may provide to an eligible recipient any assistance available under this Act for a project to be carried out on a military installation that is closed or scheduled for closure or realignment without requiring that the eligible recipient have title to the property or a leasehold interest in the property for any specified term.

''SEC. 303. ANNUAL REPORTS BY RECIPIENT.

''Each eligible recipient which receives assistance under this title from the Administrator shall annually during the period such assistance continue to make a full and complete report to the Administrator, in such manner as the Administrator shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this title in meeting the need it was designed to alleviate and the purposes of this title.

''SEC. 304. SALE OF FINANCIAL INSTRUMENTS IN REVOLVING LOAN FUNDS.

''Any loan, loan guarantee, equity, or other financial instrument in the portfolio of a revolving loan fund, including any financial instrument made available using amounts from a grant made before the effective date specified in section 802, may be sold, encumbered, or pledged at the discretion of the grantee of the Fund, to a third party provided that the net proceeds of the transaction—

''(1) shall be deposited into the Fund and may only be used for activities which are consistent with the purposes of this title; and

''(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

''SEC. 305. TREATMENT OF REVOLVING LOAN FUNDS.

''(a) IN GENERAL.—Amounts from grants made under this title which are used by an eligible recipient to establish a revolving loan fund shall not be treated, except as provided by subsection (b), as amounts derived from Federal funds for the purposes of any Federal law after such amounts are loaned from the fund to a borrower and repaid to the fund.

''(b) EXCEPTIONS.—Amounts described in subsection (a) which are loaned from a revolving loan fund to a borrower and repaid to the fund—

''(1) may only be used for activities which are consistent with the purposes of this title; and

''(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

''(c) REGULATIONS.—Not later than 30 days after the effective date specified in section 802, the Administrator shall issue regulations to carry out subsection (a).

''(d) PUBLIC REVIEW AND COMMENT.—Before issuing any final guidelines or administrative manuals governing the operation of revolving loan funds established using amounts from grants under this title, the Administrator shall provide reasonable opportunity for public review of and comment on such guidelines and administrative manuals.

''(e) APPLICABILITY TO PAST GRANTS.—The requirements of this section applicable to amounts from grants made under this title shall also apply to amounts from grants made, before the effective date specified in section 802, under title I of this Act, as in effect on the day before such effective date.

''TITLE IV—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

''SEC. 401. TECHNICAL ASSISTANCE.

''(a) IN GENERAL.—In carrying out its duties under this Act, the Administrator may provide technical assistance which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment to areas which the Administrator finds have substantial need for such assistance. Such assistance shall include project planning and feasibility studies, management and operational assistance, establishment of business outreach centers, and studies evaluating the needs of, and development potentialities for, economic growth of such areas.

''(b) PROCEDURES AND TERMS.—

''(1) MANNER OF PROVIDING ASSISTANCE.—Assistance may be provided by the Administrator through—

''(A) members of the Administrator's staff;

''(B) the payment of funds authorized for this section to departments or agencies of the Federal Government;

''(C) the employment of private individuals, partnerships, firms, corporations, or suitable institutions under contracts entered into for such purposes; or

''(D) grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

''(2) REPAYMENT TERMS.—The Administrator, in the Administrator's discretion, may require the repayment of assistance provided under this subsection and prescribe the terms and conditions of such repayment.

''(c) GRANTS COVERING ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—The Administrator may make grants to defray not to exceed 50 percent of the administrative expenses of organizations which the Administrator determines to be qualified to receive grants-in-aid under subsections (a) and (b); except that in the case of a grant under this subsection to an Indian tribe, the Administrator is authorized to defray up to 100 percent of such expenses.

''(2) DETERMINATION OF NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of such costs or expenses, the Administrator shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including contributions of space, equipment, and services.

''(3) USE OF GRANTS WITH PLANNING GRANTS.—Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants to assure adequate and effective planning and economical use of funds.

''(d) AVAILABILITY OF TECHNICAL INFORMATION; FEDERAL PROCUREMENT.—The Administrator shall aid areas described in section 502(a) and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas. The Administrator may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in areas described in section 502(a) and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

''SEC. 402. ECONOMIC DEVELOPMENT PLANNING.

''(a) DIRECT GRANTS.—

''(1) IN GENERAL.—The Administrator may make, upon application of any State, or city, or other political subdivision of a State, or sub-State planning and development organization (including an area described in section 502(a) or an economic development district), direct grants to such State, city, or other political subdivision, or organization to pay up to 50 percent of the cost for economic development planning.

''(2) PLANNING PROJECTS SPECIFICALLY INCLUDED.—The planning for cities, other political subdivisions, and sub-State planning and development organizations (including areas described in section 502(a) and economic development districts) assisted under this section shall include systematic efforts to reduce unemployment and increase incomes.

''(3) PLANNING PROCESS.—The planning shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program.

''(4) COORDINATION OF ASSISTANCE UNDER SECTION 401(c).—The assistance available under this section may be provided in addition to assistance available under section 401(c) but shall not supplant such assistance.

''(b) COMPLIANCE WITH REVIEW PROCEDURE.—The planning assistance authorized under this title shall be used in conjunction with any other available Federal planning assistance to assure adequate and effective planning and economical use of funds.

''TITLE V—ELIGIBILITY AND INVESTMENT STRATEGIES

''PART A—ELIGIBILITY

''SEC. 501. ELIGIBLE RECIPIENT DEFINED.

''In this Act, the term 'eligible recipient' means an area described in section 502(a), an economic development district designated under section 510, an Indian tribe, a State, a city or other political subdivision of a State, or a consortium of such political subdivisions, or a public or private nonprofit organization or association acting in cooperation with officials of such political subdivisions.

''SEC. 502. AREA ELIGIBILITY.

''(a) CERTIFICATION.—In order to be eligible for assistance under title II, an applicant seeking assistance to undertake a project in an area shall certify, as part of an application for such assistance, that the area on the date of submission of such application meets 1 or more of the following criteria:

''(1) The area has a per capita income of 80 percent or less of the national average.

''(2) The area has an unemployment rate 1 percent above the national average percentage for the most recent 24-month period for which statistics are available.

''(3) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

''(4) The area is a community or neighborhood (defined without regard to political or other subdivisions or boundaries) which the Administrator determines has one or more of the following conditions:

''(A) A large concentration of low-income persons.

''(B) Rural areas having substantial outmigration.

''(C) Substantial unemployment.

''(b) DOCUMENTATION.—A certification made under subsection (a) shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by the Administrator unless it is determined to be inaccurate. The most recent statistics available shall be used.

''(c) PRIOR DESIGNATIONS.—Any designation of a redevelopment area made before the effective date specified in section 802 shall not be effective after such effective date.

''SEC. 503. INVESTMENT STRATEGY.

''The Administrator may provide assistance under titles II and III to an applicant for a project only if the applicant submits to the Administrator, as part of an application for such assistance, and the Administrator approves an investment strategy which—

''(1) identifies the economic development problems to be addressed using such assistance;

''(2) identifies past, present, and projected future economic development investments in the area receiving such assistance and public and private participants and sources of funding for such investments;

''(3) sets forth a strategy for addressing the economic problems identified pursuant to paragraph (1) and describes how the strategy will solve such problems;

''(4) provides a description of the project necessary to implement the strategy, estimates of costs, and timetables; and

''(5) provides a summary of public and private resources expected to be available for the project.

''SEC. 504. APPROVAL OF PROJECTS.

''Only applications for grants or other assistance under this Act for specific projects shall be approved which are certified by the State representing such applicant and determined by the Administrator—

''(1) to be included in a State investment strategy;

''(2) to have adequate assurance that the project will be properly administered, operated, and maintained; and

''(3) to otherwise meet the requirements for assistance under this Act.

''PART B—ECONOMIC DEVELOPMENT DISTRICTS

''SEC. 510. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS AND ECONOMIC DEVELOPMENT CENTERS.

''(a) IN GENERAL.—In order that economic development projects of broader geographic significance may be planned and carried out, the Administrator may—

''(1) designate appropriate 'economic development districts' within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

''(A) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single area described in section 502(a);

''(B) the proposed district contains at least 1 area described in section 502(a);

''(C) the proposed district contains 1 or more areas described in section 502(a) or economic development centers identified in an approved district investment strategy as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the areas described in section 502(a) within the district; and

''(D) the proposed district has a district investment strategy which includes adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Administrator;

''(2) designate as 'economic development centers', in accordance with such regulations as the Administrator shall prescribe, such areas as the Administrator may deem appropriate, if—

''(A) the proposed center has been identified and included in an approved district investment strategy and recommended by the State or States affected for such special designation;

''(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the areas described in section 502(a) of the district; and

''(C) the proposed center does not have a population in excess of 250,000 according to the most recent Federal census.

''(3) provide financial assistance in accordance with the criteria of this Act, except as may be herein otherwise provided, for projects in economic development centers designated under subsection (a)(2), if—

''(A) the project will further the objectives of the investment strategy of the district in which it is to be located;

''(B) the project will enhance the economic growth potential of the district or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested; and

''(C) the amount of Federal financial assistance requested is reasonably related to the size, population, and economic needs of the district;

''(4) subject to the 50 percent non-Federal share required for any project by section 201(c), increase the amount of grant assistance authorized by section 201 for projects within areas described in section 502(a), by an amount not to exceed 10 percent of the aggregate cost of any such project, in accordance with such regulations as the Administrator shall prescribe if—

''(A) the area described in section 502(a) is situated within a designated economic development district and is actively participating in the economic development activities of the district; and

''(B) the project is consistent with an approved investment strategy.

''(b) AUTHORITIES.—In designating economic development districts and approving district investment strategies under subsection (a), the Administrator may, under regulations prescribed by the Administrator—

''(1) invite the several States to draw up proposed district boundaries and to identify potential economic development centers;

''(2) cooperate with the several States—

''(A) in sponsoring and assisting district economic planning and development groups; and

''(B) in assisting such district groups to formulate district investment strategies; and

''(3) encourage participation by appropriate local governmental authorities in such economic development districts.

''(c) TERMINATION OR MODIFICATION OF DESIGNATIONS.—The Administrator shall by regulation prescribe standards for the termination or modification of economic development districts and economic development centers designated under the authority of this section.

''(d) DEFINITIONS.—In this Act, the following definitions apply:

''(1) ECONOMIC DEVELOPMENT DISTRICT.—The term 'economic development district' refers to any area within the United States composed of cooperating areas described in section 502(a) and, where appropriate, designated economic development centers and neighboring counties or communities, which has been designated by the Administrator as an economic development district. Such term includes any economic development district designated under section 403 of this Act, as in effect on the day before the effective date specified in section 802.

''(2) ECONOMIC DEVELOPMENT CENTER.—The term 'economic development center' refers to any area within the United States which has been identified as an economic development center in an approved investment strategy and which has been designated by the Administrator as eligible for financial assistance under this Act in accordance with the provisions of this section.

''(3) LOCAL GOVERNMENT.—The term 'local government' means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

''(e) PARTS OF ECONOMIC DEVELOPMENT DISTRICTS NOT WITHIN AREAS DESCRIBED IN SECTION 502(a).—The Administrator is authorized to provide the financial assistance which is available to an area described in section 502(a) under this Act to those parts of an economic development district which are not within an area described in section 502(a), when such assistance will be of a substantial direct benefit to an area described in section 502(a) within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for an area described in section 502(a); except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in subsection (a)(4).

''TITLE VI—ADMINISTRATION

''SEC. 601. APPOINTMENT OF ASSOCIATE ADMINISTRATOR; FULL TIME EQUIVALENT EMPLOYEES.

''(a) APPOINTMENT.—The Administrator shall carry out the duties vested in the Administrator by this Act acting through an Associate Administrator of the Small Business Administration, who shall be appointed by the President by and with the advice and consent of the Senate.

''(b) PAY.—The Associate Administrator shall be compensated by the Federal Government at the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(c) FULL TIME EQUIVALENT EMPLOYEES.—The Administrator shall assign not to exceed 25 full time equivalent employees of the Small Business Administration (excluding the Associate Administrator) to assist the Administrator in the carrying out the duties vested in the Administrator by this Act.

''SEC. 602. REGIONAL COOPERATIVE AGREEMENTS.

''(a) IN GENERAL.—The Administrator shall make grants and carry out such other functions under this Act as the Administrator considers appropriate by entering into cooperative agreements with 1 or more States on

a regional basis. Each State entering into such an agreement shall be represented by the chief executive officer of the State.

''(b) TERMS AND CONDITIONS.—A cooperative agreement entered into under subsection (a) shall include such terms and conditions as the Administrator determines are necessary to carry out the provisions of this Act. Such terms and conditions at a minimum shall provide that no decision concerning regional policies or approval of project or grant applications may be made without the consent of the Administrator and a majority of the States participating in the cooperative agreement.

''(c) PARTICIPATION NOT REQUIRED.—No State shall be required to enter into a cooperative agreement under this section or to participate in any program established by this Act.

''SEC. 603. ADMINISTRATIVE EXPENSES.

''(a) PAYMENT BY STATES.—Fifty percent of the administrative expenses incurred by States in participating in a cooperative agreement entered into under section 602 shall be paid by such States and the remaining 50 percent of such expenses shall be paid by the Federal Government.

''(b) DETERMINATION OF STATE SHARE.—The share of the administrative expenses to be paid by each State participating in a cooperative agreement shall be determined by a majority vote of such States. The Administrator may not participate or vote in such determination.

''(c) DELINQUENT PAYMENTS.—No assistance authorized by this Act shall be furnished to any State or to any political subdivision or resident of a State, nor shall the State participate or vote in any decision described in section 602(b), while such State is delinquent in the payment of such State's share of the administrative expenses described in subsection (a).

''SEC. 604. FEDERAL SHARE.

''Except as otherwise expressly provided by this Act, the Federal share of the cost of any project funded with amounts made available under this Act shall not exceed 50 percent of such cost.

''SEC. 605. COOPERATION OF FEDERAL AGENCIES.

''Each Federal department and agency, in accordance with applicable laws and within the limits of available funds, shall cooperate with the Administrator in order to assist the Administrator in carrying out the functions of the Administrator.

''SEC. 606. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

''(a) CONSULTATION ON PROBLEMS RELATING TO EMPLOYMENT.—The Administrator is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

''(b) CONSULTATION ON ADMINISTRATION OF ACT.—The Administrator may make provisions for such consultation with interested departments and agencies as the Administrator may deem appropriate in the performance of the functions vested in the Administrator by this Act.

''SEC. 607. ADMINISTRATION, OPERATION, AND MAINTENANCE.

''No Federal assistance shall be approved under this Act unless the Administrator is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

''TITLE VII—MISCELLANEOUS

''SEC. 701. POWERS OF ADMINISTRATOR.

''(a) IN GENERAL.—In performing the Administrator's duties under this Act, the Administrator is authorized to—

''(1) adopt, alter, and use a seal, which shall be judicially noticed;

''(2) subject to the civil-service and classification laws, select, employ, appoint, and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

''(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Administrator may deem advisable;

''(4) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Administrator;

''(5) under regulations prescribed by the Administrator, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Administrator's discretion and upon such terms and conditions and for such consideration as the Administrator determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Administrator in connection with assistance extended under this Act, and collect or compromise all obligations assigned to or held by the Administrator in connection with such assistance until such time as such obligations may be referred to the Attorney General for suit or collection;

''(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as the Administrator determines to be reasonable, any real or personal property conveyed to, or otherwise acquired by the Administrator in connection with assistance extended under this Act;

''(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to the Administrator in connection with assistance extended this Act;

''(8) acquire, in any lawful manner and in accordance with the requirements of the Federal Property and Administrative Services Act of 1949, any property (real, personal, or mixed, tangible or intangible), whenever necessary or appropriate to the conduct of the activities authorized under this Act;

''(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Administrator, take any action, including the procurement of the services of attorneys by contract, determined by the Administrator to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance extended under this Act;

''(10) employ experts and consultants or organizations as authorized by section 3109 of title 5, United States Code, compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed, except that contracts for such employment may be renewed annually;

''(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Administrator or the Administrator's property;

''(12) make discretionary grants, pursuant to authorities otherwise available to the Administrator under this Act and without regard to the requirements of section 504, to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in a region from the funds withheld from distribution by the Administrator; except that the aggregate amount of such discretionary grants in any fiscal year may not exceed 10 percent of the amounts appropriated under title VIII for such fiscal year;

''(13) allow a State to use not to exceed 5 percent of the total of amounts received by the State in a fiscal year in grants under this Act for reasonable expenses incurred by the State in administering such amounts; and

''(14) establish such rules, regulations, and procedures as the Administrator considers appropriate in carrying out the provisions of this Act.

''(b) DEFICIENCY JUDGMENTS.—The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Administrator.

''(c) INAPPLICABILITY OF CERTAIN OTHER REQUIREMENTS.—Section 3709 of the Revised Statutes of the United States shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Administrator as a result of assistance extended under this Act if the premium for the insurance or the amount of the insurance does not exceed $1,000.

''(d) POWERS OF CONVEYANCE AND EXECUTION.—The power to convey and to execute, in the name of the Administrator, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Administrator pursuant to the provisions of this Act may be exercised by the Administrator, or by any officer or agent appointed by the Administrator for such purpose, without the execution of any express delegation of power or power of attorney.

''SEC. 702. ESTABLISHMENT OF CLEARINGHOUSE.

''In carrying out the Administrator's duties under this Act, the Administrator shall ensure that the Small Business Administration—

''(1) serves as a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, and defense conversion programs and activities of the Federal and State governments, including political subdivisions of the States; and

''(2) helps potential and actual applicants for economic development, economic adjustment, disaster recovery, and defense conversion assistance under Federal, State, and local laws in locating and applying for such assistance, including financial and technical assistance.

''SEC. 703. PERFORMANCE MEASURES.

''The Administrator shall establish performance measures for grants and other assistance provided under this Act. Such performance measures shall be used to evaluate project proposals and conduct evaluations of projects receiving such assistance.

''SEC. 704. MAINTENANCE OF STANDARDS.

''The Administrator shall continue to implement and enforce the provisions of section 712 of this Act, as in effect on the day before the effective date specified in section 802.

"SEC. 705. TRANSFER OF FUNCTIONS.

''The functions, powers, duties, and authorities and the assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, and records which are vested in or authorized to be transferred to the Secretary of the Treasury under section 29(b) of the Area Redevelopment Act, and all functions, powers, duties, and authorities under section 29(c) of such Act are hereby vested in the Administrator.

"SEC. 706. DEFINITION OF STATE.

''In this Act, the terms 'State', 'States', and 'United States' include the several States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Marshall Islands, Micronesia, and the Northern Mariana Islands.

"SEC. 707. ANNUAL REPORT TO CONGRESS.

''The Administrator shall transmit to Congress a comprehensive and detailed annual report of the Administrator's operations under this Act for each fiscal year beginning with the fiscal year ending September 30, 1996. Such report shall be printed and shall be transmitted to Congress not later than April 1 of the year following the fiscal year with respect to which such report is made.

"SEC. 708. USE OF OTHER FACILITIES.

''(a) DELEGATION OF FUNCTIONS TO OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The Administrator may delegate to the heads of other departments and agencies of the Federal Government any of the Administrator's functions, powers, and duties under this Act as the Administrator may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

''(b) DEPARTMENT AND AGENCY EXECUTION OF DELEGATED AUTHORITY.—Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this Act.

''(c) TRANSFER BETWEEN DEPARTMENTS.—Funds authorized to be appropriated under this Act may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

''(d) FUNDS TRANSFERRED FROM OTHER DEPARTMENTS AND AGENCIES.—In order to carry out the objectives of this Act, the Administrator may accept transfers of funds from other departments and agencies of the Federal Government if the funds are used for the purposes for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated. Such transferred funds shall remain available until expended, and may be transferred to and merged with the appropriations under the heading 'salaries and expenses' by the Administrator to the extent necessary to administer the program.

"SEC. 709. EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES.

''No financial assistance shall be extended by the Administrator under this Act to any business enterprise unless the owners, partners, or officers of such business enterprise—

''(1) certify to the Administrator the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Administrator for assistance of any sort, under this Act, and the fees paid or to be paid to any such person; and

''(2) execute an agreement binding such business enterprise, for a period of 2 years after such assistance is rendered by the Administrator to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within the 1-year period ending on such date, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Administrator determines involves discretion with respect to the granting of assistance under this Act.

"SEC. 710. MAINTENANCE OF RECORDS OF APPROVED APPLICATIONS FOR FINANCIAL ASSISTANCE; PUBLIC INSPECTION.

''(a) MAINTENANCE OF RECORD REQUIRED.—The Administrator shall maintain as a permanent part of the records of the Small Business Administration a list of applications approved for financial assistance under this Act, which shall be kept available for public inspection during the regular business hours of the Small Business Administration.

''(b) POSTING TO LIST.—The following information shall be posted in such list as soon as each application is approved:

''(1) The name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof.

''(2) The amount and duration of the financial assistance for which application is made.

''(3) The purposes for which the proceeds of the financial assistance are to be used.

"SEC. 711. RECORDS AND AUDIT.

''(a) RECORDKEEPING AND DISCLOSURE REQUIREMENTS.—Each recipient of assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

''(b) ACCESS TO BOOKS FOR EXAMINATION AND AUDIT.—The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

"SEC. 712. PROHIBITION AGAINST A STATUTORY CONSTRUCTION WHICH MIGHT CAUSE DIMINUTION IN OTHER FEDERAL ASSISTANCE.

''All financial and technical assistance authorized under this Act shall be in addition to any Federal assistance previously authorized, and no provision of this Act shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any State or other entity eligible under this Act would otherwise be entitled under the provisions of any other Act.

"SEC. 713. ACCEPTANCE OF APPLICANTS' CERTIFICATIONS.

''The Administrator may accept, when deemed appropriate, the applicants' certifications to meet the requirements of this Act.

"TITLE VIII—FUNDING; EFFECTIVE DATE

"SEC. 801. AUTHORIZATION OF APPROPRIATIONS

''There is authorized to be appropriated to carry out this Act $340,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000. Such sums shall remain available until expended.

"SEC. 802. EFFECTIVE DATE.

''The effective date specified in this section is the abolishment date specified in section 17101(c) of the Department of Commerce Dismantling Act.''.

(b) CONFORMING AMENDMENTS TO TITLE 5.—Section 5316 of title 5, United States Code, is amended—

(1) by striking ''Associate Administrators of the Small Business Administration (4)'' and inserting ''Associate Administrators of the Small Business Administration (5)''; and

(2) by striking ''Administrator for Economic Development.''.

(c) GAO STUDY.—On or before December 30, 1996, the Comptroller General shall submit to Congress a plan or plans for consolidating economic development programs throughout the Federal Government. The plan or plans shall focus on, but not be limited to, consolidating programs included in the Catalogue of Federal Domestic Assistance with similar purposes and target populations. The plan or plans shall detail how consolidation can lead to improved grant or program management, improvements in achieving program goals, and reduced costs.

SEC. 17202. TECHNOLOGY ADMINISTRATION.

(a) TECHNOLOGY ADMINISTRATION.—

(1) GENERAL RULE.—Except as otherwise provided in this section, the Technology Administration is terminated.

(2) OFFICE OF TECHNOLOGY POLICY.—The Office of Technology Policy is terminated.

(b) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—

(1) REDESIGNATION.—The National Institute of Standards and Technology is hereby redesignated as the National Bureau of Standards, and all references to the National Institute of Standards and Technology in Federal law or regulations are deemed to be references to the National Bureau of Standards.

(2) GENERAL RULE.—The National Bureau of Standards (in this subsection referred to as the ''Bureau'') is transferred to the National Institute for Science and Technology, established under section 17207.

(3) FUNCTIONS OF DIRECTOR.—Except as otherwise provided in this section or section 17208, upon the transfer under paragraph (2), the Director of the Bureau shall perform all functions relating to the Bureau that, immediately before the effective date specified in section 17209(a), were functions of the Secretary of Commerce or the Under Secretary of Commerce for Technology.

(c) NATIONAL TECHNICAL INFORMATION SERVICE.—

(1) PRIVATIZATION.—All functions of the National Technical Information Service are transferred to the Director of the Office of Management and Budget for privatization in accordance with section 17109 before the end of the 18-month period beginning on the date of the enactment of this Act.

(2) TRANSFER TO NATIONAL INSTITUTE FOR SCIENCE AND TECHNOLOGY.—If an appropriate arrangement for the privatization of functions of the National Technical Information Service under paragraph (1) has not been made before the end of the period described in that paragraph, the National Technical Information Service shall be transferred as of the end of such period to the National Institute for Science and Technology established by section 17207.

(3) GOVERNMENT CORPORATION.—If an appropriate arrangement for privatization of functions of the National Technical Information Service under paragraph (1) has not been made before the end of the period described in that paragraph, the Director of the Office of Management and Budget shall, within 6 months after the end of such period, submit to Congress a proposal for legislation to establish the National Technical Information Service as a wholly owned Government corporation. The proposal should provide for the corporation to perform substantially the same functions that, as of the date of enactment of this Act, are performed by the National Technical Information Service.

(4) FUNDING.—No funds are authorized to be appropriated for the National Technical Information Service or any successor corporation established pursuant to a proposal under paragraph (3).

(d) AMENDMENTS.—

(1) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(A) in section 2(b), by striking paragraph (1) and redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2(d), by striking '', including the programs established under sections 25, 26, and 28 of this Act'';

(C) in section 10, by striking ''Advanced'' in both the section heading and subsection (a), and inserting in lieu thereof ''Standards and''; and

(D) by striking sections 24, 25, 26, and 28.

(2) STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(A) in section 3, by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(B) in section 4, by striking paragraphs (1), (4), and (13) and redesignating paragraphs (2), (3), (5), (6), (7), (8), (9), (10), (11), and (12) as paragraphs (1) through (10), respectively;

(C) by striking sections 5, 6, 7, 8, 9, and 10;

(D) in section 11—

(i) by striking '', the Federal Laboratory Consortium for Technology Transfer,'' in subsection (c)(3);

(ii) by striking ''and the Federal Laboratory Consortium for Technology Transfer'' in subsection (d)(2);

(iii) by striking '', and refer such requests'' and all that follows through ''available to the Service'' in subsection (d)(3); and

(iv) by striking subsection (e); and

(E) in section 17—

(i) by striking ''Subject to paragraph (2), separate'' in subsection (c)(1) and inserting in lieu thereof ''Separate'';

(ii) by striking paragraph (2) of subsection (c) and redesignating paragraph (3) as paragraph (2);

(iii) by striking ''funds to carry out'' in subsection (f), and inserting in lieu thereof ''funds only to pay the salary of the Director of the Office of Quality Programs, who shall be responsible for carrying out''; and

(iv) by adding at the end the following new subsection:

''(h) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Director of the Office of Quality Programs may accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.''.

(3) MISCELLANEOUS AMENDMENTS.—Section 3 of Public Law 94–168 (15 U.S.C. 205b) is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(C) in paragraph (3), as so redesignated by subparagraph (B) of this paragraph, by striking ''in nonbusiness activities''.

SEC. 17203. REORGANIZATION OF THE BUREAU OF THE CENSUS.

(a) PROVISIONS RELATING TO INTERIM PERIOD.—

(1) FUNCTIONS OF THE SECRETARY OF COMMERCE.—During the 6-month period beginning on the abolishment date specified in section 17101(c), the Director of the Office of Management and Budget shall perform all functions that, immediately before such effective date, were functions of the Secretary of Commerce under title 13, United States Code.

(2) REORGANIZATION AUTHORITY UNDER SECTION 17104(f) NOT TO APPLY.—Section 17104(f) shall not apply with respect to the Bureau of the Census or any function to be performed by the appropriate official pursuant to paragraph (1).

(b) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Notwithstanding any provision of section 17209, effective as of the first day following the end of the 6-month period referred to in subsection (a)(1)—

(A) the Bureau of the Census shall be transferred to the Department of Labor; and

(B) all functions that, immediately before such first day, were functions of the Director of the Office of Management and Budget by reason of subsection (a)(1) shall be transferred to the Secretary of Labor.

(2) CONTINUATION OF SERVICE OF THE DIRECTOR OF THE CENSUS.—The individual serving as the Director of the Census at the end of the 6-month period referred to in subsection (a)(1) may continue serving in that capacity, after the end of such period, until a successor has taken office.

(c) AMENDMENTS.—Effective as of the first day following the end of the 6-month period referred to in subsection (a)(1)—

(1) TRANSFER OF THE BUREAU OF THE CENSUS TO THE DEPARTMENT OF LABOR.—(A) Section 2 of title 13, United States Code, is amended by striking ''is continued as'' through the period and inserting ''is an agency within, and under the jurisdiction of, the Department of Labor.''.

(B) Subsection (e) of section 12 of the Act of February 14, 1903 (15 U.S.C. 1511(e)) is repealed.

(2) DEFINITION OF SECRETARY.—Title 13, United States Code, is amended in section 1(2) by striking ''Secretary of Commerce'' and inserting ''Secretary of Labor''.

(3) REFERENCES TO THE DEPARTMENT OF COMMERCE.—Title 13, United States Code, is amended in sections 4, 9(a), 23(b), 24(e), 44, 103, 132, 211, 213(b)(2), 221, 222, 223, 224, 225(a), and 241 by striking ''Department of Commerce'' each place it appears and inserting ''Department of Labor''.

(4) REFERENCES TO THE SECRETARY OF COMMERCE.—(A) Section 304(a) of title 13, United States Code, is amended by striking ''Secretary of Commerce'' and inserting ''Secretary of Labor''.

(B)(i) Section 401(a) of title 13, United States Code, is amended by striking ''Secretary of Commerce'' and inserting ''Secretary''.

(ii) Section 8(e) of the Foreign Direct Investment and International Financial Data Improvements Act of 1990 (22 U.S.C. 3144(e)) is amended by striking ''Secretary of Commerce'' and inserting ''Secretary of Labor''.

(iii) Section 401(a) of title 13, United States Code, is amended by striking ''Department of Commerce'' and inserting ''Federal Reserve System''.

(5) COMPENSATION FOR THE POSITION OF DIRECTOR OF THE CENSUS.—Section 5315 of title 5, United States Code, as amended by section 17108(e)(7), is further amended by striking ''Census.'' and inserting ''Census, Department of Labor.''.

(6) CONFIDENTIALITY.—Section 9 of title 13, United States Code, is amended by adding at the end the following:

''(c)(1) Nothing in subsection (a)(3) shall be considered to permit the disclosure of any matter or information to an officer or employee of the Department of Labor who is not referred to in subchapter II if, immediately before the start of the 6-month period referred to in section 17203(a)(1) of the Department of Commerce Dismantling Act, such disclosure (if then made by an officer or employee of the Department of Commerce) would have been impermissible under this section (as then in effect).

''(2) Paragraph (1) shall not apply with respect to any disclosure made to the Secretary.''.

(d) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Bureau of the Census should—

(1) make appropriate use of any authority afforded to it by the Census Address List Improvement Act of 1994 (Public Law 103–430; 108 Stat. 4393), and take measures to ensure the timely implementation of such Act; and

(2) streamline census questionnaires to promote savings in the collection and tabulation of data.

(e) RULE OF CONSTRUCTION.—For purposes of subtitle E, the reorganization of the Bureau of the Census pursuant to subsections (b) and (c) shall be treated as if it involved a transfer of functions.

SEC. 17204. BUREAU OF ECONOMIC ANALYSIS.

(a) IN GENERAL.—(1) The functions of the Bureau of Economic Analysis are transferred to the Secretary of Labor.

(2) All functions which, immediately before such date, are functions of the Secretary of Commerce with respect to the Bureau of Economic Analysis are transferred to the Secretary of Labor.

(b) CONSOLIDATION WITH THE BUREAU OF LABOR STATISTICS.—The Secretary of Labor shall consolidate the functions transferred under subsection (a) with the Bureau of Labor Statistics within the Department of Labor.

(c) REPORTS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor, after consultation with the Director of the Office of Management and Budget, shall submit to the Congress a written report on—

(1) the availability of any private sector resources that may be capable of performing any or all of the functions of the Bureau of Economic Analysis, and the feasibility of having any such functions so performed; and

(2) the feasibility of implementing a system under which fees may be assessed by the Bureau of Economic Analysis in order to defray the costs of any services performed by the Bureau of Economic Analysis, when such services are performed other than on behalf of the Federal Government or an agency or instrumentality thereof.

(d) RULE OF CONSTRUCTION.—For purposes of subtitle E, the reorganization of the Bureau of Economic Analysis under this section shall be treated as if it involved a transfer of functions.

(e) LIMITATION ON ANNUAL OBLIGATIONS AND EXPENDITURES FOR CONTINUED FUNCTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), for each fiscal year that begins on or after the effective date of this section, the total of amounts obligated or expended by the United States each fiscal year for performance of functions which immediately before the date of the enactment of this Act were authorized to be performed by the Secretary of Commerce with respect to the Bureau of Economic Analysis, or by or an agency, officer, or employee of the Department of Commerce with respect to that bureau, may not exceed 75 percent of the total of amounts obligated or expended by the United States for performance of such functions for fiscal year 1995.

(2) EXCEPTION.—Paragraph (1) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of funtions pursuant to this section.

(3) RULE OF CONSTRUCTION.—This subsection shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(4) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

The Director of the Office of Management and Budget shall—

(A) ensure compliance with the requirements of this subsection; and

(B) include in each report under sections 17106(a) and (b) a description of actions taken to comply with such requirements.

SEC. 17205. TERMINATED FUNCTIONS OF NTIA.

(a) REPEALS.—The following provisions of law are repealed:

(1) Subpart A of part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.), relating to assistance for public telecommunications facilities.

(2) Subpart B of part IV of title III of the Communications Act of 1934 (47 U.S.C. 394 et seq.), relating to the Endowment for Children's Educational Television.

(3) Subpart C of part IV of title III of the Communications Act of 1934 (47 U.S.C. 395 et seq.), relating to Telecommunications Demonstration grants.

(b) DISPOSAL OF NTIA LABORATORIES.—

(1) PRIVATIZATION.—All laboratories of the National Telecommunications and Information Administration are transferred to the Director of the Office of Management and Budget for privatization in accordance with section 17109.

(2) TRANSFER OF FUNCTIONS.—The functions of the National Telecommunications and Information Administration concerning research and analysis of the electromagnetic spectrum described in section 5112(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 1532) are transferred to the Director of the National Bureau of Standards.

(c) TRANSFER OF NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION FUNCTIONS.—

(1) TRANSFER TO USTR.—Except as provided in subsection (b)(2), the functions of the National Telecommunications and Information Administration, and of the Secretary of Commerce and the Assistant Secretary for Communications and Information of the Department of Commerce with respect to the National Telecommunications and Information Administration, are transferred to the United States Trade Representative.

(2) REFERENCES.—References in any provision of law (including the National Telecommunications and Information Administration Organization Act) to the Secretary of Commerce or the Assistant Secretary for Communications and Information of the Department of Commerce—

(A) with respect to a function vested pursuant to this section in the United States Trade Representative shall be deemed to refer to the United States Trade Representative; and

(B) with respect to a function vested pursuant to this section in the Director of the National Bureau of Standards shall be deemed to refer to the Director of the National Bureau of Standards.

(3) TERMINATION OF NTIA.—Effective on the abolishment date specified in section 17101(c), the National Telecommunications and Information Administration is abolished.

SEC. 17206. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) TERMINATION OF MISCELLANEOUS RESEARCH PROGRAMS AND ACCOUNTS.—

(1) IN GENERAL.—No funds may be appropriated in any fiscal year for the following programs and accounts of the National Oceanic and Atmospheric Administration:

(A) The National Undersea Research Program.

(B) The Fleet Modernization Program.

(C) The Charleston, South Carolina, Special Management Plan.

(D) Chesapeake Bay Observation Buoys (as of September 30, 1996).

(E) Federal/State Weather Modification Grants.

(F) The Southeast Storm Research Account.

(G) The Southeast United States Caribbean Fisheries Oceanographic Coordinated Investigations Program.

(H) National Institute for Environmental Renewal.

(I) The Lake Champlain Study.

(J) The Maine Marine Research Center.

(K) The South Carolina Cooperative Geodetic Survey Account.

(L) Pacific Island Technical Assistance.

(M) Sea Grant Oyster Disease Account.

(N) Sea Grant Zebra Mussel Account.

(O) VENTS program.

(P) National Weather Service non-Federal, non-wildfire Weather Service.

(Q) National Weather Service Regional Climate Centers.

(R) National Weather Service Samoa Weather Forecast Office Repair and Upgrade Account.

(S) Dissemination of Weather Charts (Marine Facsimile Service).

(T) The Climate and Global Change Account.

(U) The Global Learning and Observations to Benefit the Environment Program.

(V) Great Lakes nearshore research.

(W) Mussel watch.

(2) REPEALS.—The following provisions of law are repealed:

(A) The Ocean Thermal Conversion Act of 1980 (42 U.S.C. 9101 et seq.).

(B) Title IV of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447 et seq.).

(C) Title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.).

(D) The Great Lakes Shoreline Mapping Act of 1987 (33 U.S.C. 883a note).

(E) The Great Lakes Fish and Wildlife Tissue Bank Act (16 U.S.C. 943 et seq.).

(F) The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.), except for those provisions affecting the Assistant Secretary of the Army (civil works) and the Secretary of the department in which the Coast Guard is operating.

(G) Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a).

(H) Section 208(c) of the National Sea Grant College Program Act (33 U.S.C. 1127(c)).

(I) Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is repealed effective October 1, 1998.

(J) The NOAA Fleet Modernization Act (33 U.S.C. 891 et seq.).

(K) Public Law 85–342 (72 Stat. 35; 16 U.S.C. 778 et seq.), relating to fish research and experimentation.

(L) The first section of the Act of August 8, 1956 (70 Stat. 1126; 16 U.S.C. 760d), relating to grants for commercial fishing education.

(M) Public Law 86–359 (16 U.S.C. 760e et seq.), relating to the study of migratory marine gamefish.

(N) The Act of August 15, 1914 (Chapter 253; 38 Stat. 692; 16 U.S.C. 781 et seq.), prohibiting the taking of sponges in the Gulf of Mexico and the Straits of Florida.

(b) AERONAUTICAL MAPPING AND CHARTING.—

(1) IN GENERAL.—The aeronautical mapping and charting functions of the National Oceanic and Atmospheric Administration are transferred to the Defense Mapping Agency.

(2) TERMINATION OF CERTAIN FUNCTIONS.—The Defense Mapping Agency shall terminate any functions transferred under paragraph (1) that are performed by the private sector.

(3) FUNCTIONS REQUESTED BY FEDERAL AVIATION ADMINISTRATION.—(A) Notwithstanding paragraph (2), the Director of the Defense Mapping Agency shall carry out such aeronautical charting functions as may be requested by the Administrator of the Federal Aviation Administration.

(B) In carrying out aeronautical mapping functions requested by the Administrator under subparagraph (A), the Director shall—

(i) publish and distribute to the public and to the Administrator any aeronautical charts requested by the Administrator; and

(ii) provide to the Administrator such other air traffic control products and services as may be requested by the Administrator,

in such manner and including such information as the Administrator determines is necessary for, or will promote, the safe and efficient movement of aircraft in air commerce.

(4) CONTINUING APPLICABILITY.—The requirements of section 1307 of title 44, United States Code, shall continue to apply with respect to all aeronautical products created or published by the Director of the Defense Mapping Agency in carrying out the functions transferred to the Director under this paragraph; except that the prices for such products shall be established jointly by the Director and the Secretary of Transportation on an annual basis.

(c) TRANSFER OF MAPPING, CHARTING, AND GEODESY FUNCTIONS TO THE UNITED STATES GEOLOGICAL SURVEY.—

(1) IN GENERAL.—Except as provided in subsection (b), there are hereby transferred to the Director of the United States Geological Survey the functions relating to mapping, charting, and geodesy authorized under the Act of August 7, 1947 (61 Stat. 787; 33 U.S.C. 883a).

(2) TERMINATION OF CERTAIN FUNCTIONS.—The Director of the United States Geological Survey shall terminate any functions transferred under paragraph (1) that are performed by the private sector.

(d) NESDIS.—There are transferred to the National Institute for Science and Technology all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Environmental Satellite, Data, and Information System.

(e) OAR.—There are transferred to the National Institute for Science and Technology all functions and assets of the National Oceanic and Atmospheric Administration (including global programs) that on the date immediately before the effective date of this section were authorized to be performed by the Office of Oceanic and Atmospheric Research.

(f) NWS.—

(1) IN GENERAL.—There are transferred to the National Institute for Science and Technology all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Weather Service.

(2) DUTIES.—To protect life and property and enhance the national economy, the Administrator of Science and Technology, through the National Weather Service, except as outlined in paragraph (3), shall be responsible for the following:

(A) Forecasts. The Administrator of Science and Technology, through the National Weather Service, shall serve as the sole official source of severe weather warnings.

(B) Issuance of storm warnings.

(C) The collection, exchange, and distribution of meteorological, hydrological, climatic, and oceanographic data and information.

(D) The preparation of hydro-meteorological guidance and core forecast information.

(3) LIMITATIONS ON COMPETITION.—The National Weather Service may not compete, or assist other entities to compete, with the private sector to provide a service when that service is currently provided or can be provided by a commercial enterprise unless—

(A) the Administrator of Science and Technology finds that the private sector is unwilling or unable to provide the service; or

(B) the Administrator of Science and Technology finds that the service provides vital weather warnings and forecasts for the protection of lives and property of the general public.

(4) ORGANIC ACT AMENDMENTS.—

(A) AMENDMENTS.—The Act of 1890 is amended—

(i) by striking section 3 (15 U.S.C. 313); and

(ii) in section 9 (15 U.S.C. 317), by striking ''Department of'' and all that follows thereafter and inserting ''National Institute for Science and Technology.''.

(B) DEFINITION.—For purposes of this paragraph, the term ''Act of 1890'' means the Act entitled ''An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture'', approved October 1, 1890 (26 Stat. 653).

(5) REPEAL.—Sections 706 and 707 of the Weather Service Modernization Act (15 U.S.C. 313 note) are repealed.

(6) CONFORMING AMENDMENTS.—The Weather Service Modernization Act (15 U.S.C. 313 note) is amended—

(A) in section 702, by striking paragraph (3) and redesignating paragraphs (4) through (10) as paragraphs (3) through (9), respectively; and

(B) in section 703—

(i) by striking ''(a) NATIONAL IMPLEMENTATION PLAN.—'';

(ii) by striking paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively; and

(iii) by striking subsections (b) and (c).

(g) TERMINATION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CORPS OF COMMISSIONED OFFICERS.—

(1) NUMBER OF OFFICERS.—Notwithstanding section 8 of the Act of June 3, 1948 (33 U.S.C. 853g), the total number of commissioned officers on the active list of the National Oceanic and Atmospheric Administration shall not exceed 358 for fiscal year 1996. No commissioned officers are authorized for any fiscal year after fiscal year 1996.

(2) SEPARATION PAY.—(A) Commissioned officers may be separated from the active list of the National Oceanic and Atmospheric Administration. Any officer so separated because of paragraph (1) shall, subject to subparagraph (B) and the availability of appropriations, be eligible for separation pay under section 9 of the Act of June 3, 1948 (33 U.S.C. 853h) to the same extent as if such officer had been separated under section 8 of such Act (33 U.S.C. 853g).

(B) Any officer who, under paragraph (4), transfers to another of the uniformed services or becomes employed in a civil service position shall not be eligible for separation pay under this paragraph.

(C)(i) Any officer who receives separation pay under this paragraph shall be required to repay the amount received if, within 1 year after the date of the separation on which the payment is based, such officer is reemployed in a civil service position in the National Oceanic and Atmospheric Administration, the duties of which position would formerly have been performed by a commissioned officer, as determined by the Administrator of the National Oceanic and Atmospheric Administration.

(ii) A repayment under this subparagraph shall be made in a lump sum or in such installments as the Administrator may specify.

(D) In the case of any officer who makes a repayment under subparagraph (C)—

(i) the National Oceanic and Atmospheric Administration shall pay into the Civil Service Retirement and Disability Fund, on such officer's behalf, any deposit required under section 8422(e)(1) of title 5, United States Code, with respect to any prior service performed by that individual as such an officer; and

(ii) if the amount paid under clause (i) is less than the amount of the repayment under subparagraph (C), the National Oceanic and Atmospheric Administration shall pay into the Government Securities Investment Fund (established under section 8438(b)(1)(A) of title 5, United States Code), on such individual's behalf, an amount equal to the difference.

The provisions of paragraph (5)(C)(iv) shall apply with respect to any contribution to the Thrift Savings Plan made under clause (ii).

(3) PRIORITY PLACEMENT PROGRAM.—A priority placement program similar to the programs described in section 3329b of title 5, United States Code, as amended by section 17110, shall be established by the National Oceanic and Atmospheric Administration to assist commissioned officers who are separated from the active list of the National Oceanic and Atmospheric Administration because of paragraph (1).

(4) TRANSFER.—(A) Subject to the approval of the Secretary of Defense and under terms and conditions specified by the Secretary, commissioned officers subject to paragraph (1) may transfer to the Armed Forces under section 716 of title 10, United States Code.

(B) Subject to the approval of the Secretary of Transportation and under terms and conditions specified by the Secretary, commissioned officers subject to paragraph (1) may transfer to the United States Coast Guard under section 716 of title 10, United States Code.

(C) Subject to the approval of the Administrator of the National Oceanic and Atmospheric Administration and under terms and conditions specified by that Administrator, commissioned officers subject to paragraph (1) may be employed by the National Oceanic and Atmospheric Administration as members of the civil service.

(5) RETIREMENT PROVISIONS.—(A) For commissioned officers who transfer under paragraph (4)(A) to the Armed Forces, the National Oceanic and Atmospheric Administration shall pay into the Department of Defense Military Retirement Fund an amount, to be calculated by the Secretary of Defense in consultation with the Secretary of the Treasury, equal to the actuarial present value of any retired or retainer pay they will draw upon retirement, including full credit for service in the NOAA Corps. Any payment under this subparagraph shall, for purposes of paragraph (2) of section 17207(g), be considered to be an expenditure described in such paragraph.

(B) For commissioned officers who transfer under paragraph (4)(B) to the United States Coast Guard, full credit for service in the NOAA Corps shall be given for purposes of any annuity or other similar benefit under the retirement system for members of the United States Coast Guard, entitlement to which is based on the separation of such officer.

(C)(i) For a commissioned officer who becomes employed in a civil service position pursuant to paragraph (4)(C) and thereupon becomes subject to the Federal Employees' Retirement System, the National Oceanic and Atmospheric Administration shall pay, on such officer's behalf—

(I) into the Civil Service Retirement and Disability Fund, the amounts required under clause (ii); and

(II) into the Government Securities Investment Fund, the amount required under clause (iii).

(ii)(I) The amount required under this subclause is the amount of any deposit required under section 8422(e)(1) of such title 5 with respect to any prior service performed by the individual as a commissioned officer of the National Oceanic and Atmospheric Administration.

(II) To determine the amount required under this subclause, first determine, for each year of service with respect to which the deposit under subclause (I) relates, the product of the normal-cost percentage for such year (as determined under the last sentence of this subclause) multiplied by basic pay received by the individual for any such service performed in such year. Second, take the sum of the amounts determined for the respective years under the first sentence. Finally, subtract from such sum the amount of the deposit under subclause (I). For purposes of the first sentence, the normal-cost percentage for any year shall be as determined for such year under the provisions of section 8423(a)(1) of title 5, United States Code, except that, in the case of any year before the first year for which any normal-cost percentage was determined under such provisions, the normal-cost percentage for such first year shall be used.

(iii) The amount required under this clause is the amount by which the separation pay to which the officer would have been entitled under the second sentence of paragraph (2)(A) (assuming the conditions for receiving such separation pay have been met) exceeds the amount of the deposit under clause (ii)(I), if at all.

(iv)(I) Any contribution made under this subparagraph to the Thrift Savings Plan shall not be subject to any otherwise applicable limitation on contributions contained in the Internal Revenue Code of 1986, and shall not be taken into account in applying any such limitation to other contributions or benefits under the Thrift Savings Plan, with respect to the year in which the contribution is made.

(II) Such plan shall not be treated as failing to meet any nondiscrimination requirement by reason of the making of such contribution.

(6) REPEALS.—(A) The following provisions of law are repealed:

(i) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a–853o, 853p–853u).

(ii) The Act of February 16, 1929 (Chapter 221, section 5; 45 Stat. 1187; 33 U.S.C. 852a).

(iii) The Act of January 19, 1942 (Chapter 6; 56 Stat. 6).

(iv) Section 9 of Public Law 87–649 (76 Stat. 495).

(v) The Act of May 22, 1917 (Chapter 20, section 16; 40 Stat. 87; 33 U.S.C. 854 et seq.).

(vi) The Act of December 3, 1942 (Chapter 670; 56 Stat. 1038.

(vii) Sections 1 through 5 of Public Law 91–621 (84 Stat. 1863; 33 U.S.C. 857–1 et seq.).

(viii) The Act of August 10, 1956 (Chapter 1041, section 3; 70A Stat. 619; 33 U.S.C. 857a).

(ix) The Act of May 18, 1920 (Chapter 190, section 11; 41 Stat. 603; 33 U.S.C. 864).

(x) The Act of July 22, 1947 (Chapter 286; 61 Stat. 400; 33 U.S.C. 873, 874).

(xi) The Act of August 3, 1956 (Chapter 932; 70 Stat. 988; 33 U.S.C. 875, 876).

(xii) All other Acts inconsistent with this subsection.

No repeal under this subparagraph shall affect any annuity or other similar benefit payable, under any provision of law so repealed, based on the separation of any individual from the NOAA Corps on or before September 30, 1996. Any authority exercised by the Secretary of Commerce or his designee with respect to any such benefits shall be exercised by the Administrator of the National Oceanic and Atmospheric Administration, and any authorization of appropriations relating to those benefits, which is in effect as of September 30, 1996, shall be considered to have remained in effect.

(B) The effective date of the repeals under subparagraph (A) shall be October 1, 1996.

(7) CREDITABILITY OF NOAA SERVICE FOR PURPOSES RELATING TO REDUCTIONS IN FORCE.—A commissioned officer who is separated from the active list of the National Oceanic and Atmospheric Administration because of paragraph (1) shall, for purposes of any subsequent reduction in force, receive credit for any period of service performed as such an officer before separation from such list to the same extent and in the same manner as if it had been a period of active service in the Armed Forces.

(8) ABOLITION.—The Office of the National Oceanic and Atmospheric Administration Corps of Operations and the Commissioned Personnel Center are abolished effective September 30, 1996.

(h) NOAA FLEET.—

(1) SERVICE CONTRACTS.—Notwithstanding any other provision of law and subject to the availability of appropriations, the Administrator of the National Institute for Science and Technology shall enter into contracts, including multiyear contracts, subject to paragraph (3), for the use of vessels to conduct oceanographic research and fisheries research, monitoring, enforcement, and management, and to acquire other data necessary to carry out the missions of the National Oceanic and Atmospheric Administration. The Administrator of the National Institute for Science and Technology shall enter into these contracts unless—

(A) the cost of the contract is more than the cost (including the cost of vessel operation, maintenance, and all personnel) to the National Oceanic and Atmospheric Administration of obtaining those services on vessels of the National Oceanic and Atmospheric Administration;

(B) the contract is for more than 7 years; or

(C) the data is acquired through a vessel agreement pursuant to paragraph (4).

(2) VESSELS.—The Administrator of the National Institute for Science and Technology may not enter into any contract for the construction, lease-purchase, upgrade, or service life extension of any vessel.

(3) MULTIYEAR CONTRACTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), and notwithstanding section 1341 of title 31, United States Code, and section 11 of title 41, United States Code, the Administrator of the National Institute for Science and Technology may acquire data under multiyear contracts.

(B) REQUIRED FINDINGS.—The Administrator of the National Institute for Science and Technology may not enter into a contract pursuant to this paragraph unless such Administrator finds with respect to that contract that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request from Congress funding for the contract at the level required to avoid contract termination.

(C) REQUIRED PROVISIONS.—The Administrator of the National Institute for Science and Technology may not enter into a contract pursuant to this paragraph unless the contract includes—

(i) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(ii) a provision that specifies the term of effectiveness of the contract; and

(iii) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to clause (ii), the United States shall only be liable for the lesser of—

(I) an amount specified in the contract for such a termination; or

(II) amounts that were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract and are unobligated on the date of the termination.

(4) VESSEL AGREEMENTS.—The Administrator of the National Institute for Science and Technology shall use excess capacity of University National Oceanographic Laboratory System vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

(5) TRANSFER OF EXCESS VESSELS.—The Administrator of the National Institute for Science and Technology shall transfer any vessels that are excess to the needs of the National Oceanic and Atmospheric Administration to the National Defense Reserve Fleet. Notwithstanding any other provision of law, these vessels may be scrapped in accordance with section 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(i)).

(i) NATIONAL MARINE FISHERIES SERVICE.—(1) There are transferred to the National Institute for Science and Technology all functions that on the day before the effective date of this section were authorized by law to be performed by the National Marine Fisheries Service.

(2) Notwithstanding any other provision of law, the National Marine Fisheries Service may not affect on-land activities under the Endangered Species Act of 1973 for salmon recovery in the State of Idaho (16 U.S.C. 1531 et seq.).

(j) NATIONAL OCEAN SERVICE.—Except as otherwise provided in this title, there are transferred to the National Institute for Science and Technology all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Ocean Service (including the Coastal Ocean Program).

(k) TRANSFER OF COASTAL NONPOINT POLLUTION CONTROL FUNCTIONS.—There are transferred to the Administrator of the Environmental Protection Agency the functions under section 6217 of the Omnibus Budget Reconciliation Act of 1990 (16 U.S.C. 1455b) that on the day before the effective date of this section were vested in the Secretary of Commerce.

SEC. 17207. NATIONAL INSTITUTE FOR SCIENCE AND TECHNOLOGY.

(a) ESTABLISHMENT.—There is established as an independent agency in the Executive Branch the National Institute for Science and Technology (in this section referred to as the ''Institute''). The Institute, and all functions and offices transferred to it under this title, shall be administered under the supervision and direction of an Administrator of Science and Technology. The Administrator of Science and Technology shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive basic pay at the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(b) PRINCIPAL OFFICERS.—There shall be in the Institute, on the transfer of functions and offices under this title—

(1) an Administrator of the National Oceanic and Atmospheric Administration, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive basic pay at the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(2) a Director of the National Bureau of Standards, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) ADDITIONAL OFFICERS.—There shall be in the Institute—

(1) a Chief Financial Officer of the Institute, to be appointed by the President, by and with the advice and consent of the Senate;

(2) a Chief of External Affairs, to be appointed by the President, by and with the advice and consent of the Senate;

(3) a General Counsel, to be appointed by the President, by and with the advice and consent of the Senate; and

(4) an Inspector General, to be appointed in accordance with the Inspector General Act of 1978.

Each Officer appointed under this subsection shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) TRANSFER OF FUNCTIONS AND OFFICES.—Except as otherwise provided in this title, there are transferred to the Institute—

(1) the National Oceanic and Atmospheric Administration, along with its functions and offices, as provided in section 17206;

(2) the National Bureau of Standards, along with its functions and offices, as provided in section 17202; and

(3) the Office of Space Commerce, along with its functions and offices.

(e) ELIMINATION OF POSITIONS.—The Administrator of Science and Technology may eliminate positions that are no longer necessary because of the termination of functions under this section, section 17202, and section 17206.

(f) AGENCY TERMINATIONS.—

(1) TERMINATIONS.—On the date specified in section 17209(a), the following shall terminate:

(A) The Office of the Deputy Administrator and Assistant Secretary of the National Oceanic and Atmospheric Administration.

(B) The Office of the Deputy Under Secretary of the National Oceanic and Atmospheric Administration.

(C) The Office of the Chief Scientist of the National Oceanic and Atmospheric Administration.

(D) The position of Deputy Assistant Secretary for Oceans and Atmosphere.

(E) The position of Deputy Assistant Secretary for International Affairs.

(F) Any office of the National Oceanic and Atmospheric Administration or the National Bureau of Standards whose primary purpose is to perform high performance computing communications, legislative, personnel, public relations, budget, constituent, intergovernmental, international, policy and strategic planning, sustainable development, administrative, financial, educational, legal and coordination functions. These functions shall, as necessary, be performed only by officers described in subsection (c).

(G) The position of Associate Director of the National Institute of Standards and Technology.

(2) TERMINATION OF EXECUTIVE SCHEDULE POSITIONS.—Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for levels I through V of the Executive Schedule under sections 5312 through 5315 of title 5, United States Code, in an office terminated pursuant to this section, section 17202, and section 17206 shall also terminate.

(g) FUNDING REDUCTIONS RESULTING FROM REORGANIZATION.—

(1) FUNDING REDUCTIONS.—For each fiscal year that begins on or after the effective date of this section, the amount obligated or expended by the United States in performing all functions vested in the National Institute for Science and Technology pursuant to this subtitle may not exceed 75 percent of the total of the amounts obligated or expended by the United States in performing, during fiscal year 1995, all functions vested in the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and the Office of Space Commerce, except for those functions transferred under section 17206 to agencies or departments other than the National Institute for Science and Technology.

(2) EXCEPTION.—Paragraph (1) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in paragraph (1) pursuant to this subtitle.

(3) RULE OF CONSTRUCTION.—This subsection shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(4) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall—

(A) ensure compliance with the requirements of this subsection; and

(B) include in each report under section 17106 (a) and (b) of this title a description of actions taken to comply with such requirements.

SEC. 17208. MISCELLANEOUS TERMINATIONS; MORATORIUM ON PROGRAM ACTIVITIES.

(a) TERMINATIONS.—The following agencies and programs of the Department of Commerce are terminated:

(1) The Minority Business Development Administration.

(2) The United States Travel and Tourism Administration.

(3) The programs and activities of the National Telecommunications and Information Administration referred to in section 17205(a).

(4) The Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n).

(5) The Manufacturing Extension Programs under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l).

(6) The National Institute of Standards and Technology METRIC Program.

(b) MORATORIUM ON PROGRAM ACTIVITIES.—The authority to make grants, enter into contracts, provide assistance, incur obligations, or provide commitments (including any enlargement of existing obligations or commitments, except if required by law) with respect to the agencies and programs described in subsection (a) is terminated effective on the date of the enactment of this title.

SEC. 17209. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle shall take effect on the abolishment date specified in section 17101(c).

(b) PROVISIONS EFFECTIVE ON DATE OF ENACTMENT.—The following provisions of this subtitle shall take effect on the date of the enactment of this Act:

(1) Section 17201.

(2) Section 17206(g), except as otherwise provided in that section.

(3) Section 17208(b).

(4) This section.

Subtitle C—Office of United States Trade Representative

CHAPTER 1—GENERAL PROVISIONS

SEC. 17301. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''Office'' means the Office of the United States Trade Representative;

(2) the term ''Federal agency'' has the meaning given to the term ''agency'' by section 551(1) of title 5, United States Code; and

(3) the term ''USTR'' means the United States Trade Representative as provided for under section 17311.

CHAPTER 2—OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Subchapter A—Establishment

SEC. 17311. ESTABLISHMENT OF THE OFFICE.

(a) IN GENERAL.—The Office of the United States Trade Representative is established as an independent establishment in the executive branch of Government as defined under section 104 of title 5, United States Code. The United States Trade Representative shall be the head of the Office and shall be appointed by the President, by and with the advice and consent of the Senate.

(b) AMBASSADOR STATUS.—The USTR shall have the rank and status of Ambassador and shall represent the United States in all trade negotiations conducted by the Office.

(c) CONTINUED SERVICE OF CURRENT USTR.—The individual serving as United States Trade Representative on the date immediately preceding the effective date of this subtitle may continue to serve as USTR under subsection (a).

(d) SUCCESSOR TO THE DEPARTMENT OF COMMERCE.—The Office shall be the successor to the Department of Commerce for purposes of protocol.

SEC. 17312. FUNCTIONS OF THE USTR.

(a) IN GENERAL.—In addition to the functions transferred to the USTR by this subtitle, such other functions as the President may assign or delegate to the USTR, and such other functions as the USTR may, after the effective date of this subtitle, be required to carry out by law, the USTR shall—

(1) serve as the principal advisor to the President on international trade policy and advise the President on the impact of other policies of the United States Government on international trade;

(2) exercise primary responsibility, with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962, for developing and implementing international trade policy, including commodity matters and, to the extent related to international trade policy, direct investment matters and, in exercising such responsibility, advance and implement, as the primary mandate of the Office, the goals of the United States to—

(A) maintain United States leadership in international trade liberalization and expansion efforts;

(B) reinvigorate the ability of the United States economy to compete in international markets and to respond flexibly to changes in international competition; and

(C) expand United States participation in international trade through aggressive promotion and marketing of goods and services that are products of the United States;

(3) exercise lead responsibility for the conduct of international trade negotiations, including negotiations relating to commodity matters and, to the extent that such negotiations are related to international trade, direct investment negotiations;

(4) exercise lead responsibility for the establishment of a national export strategy, including policies designed to implement such strategy;

(5) with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962, issue policy guidance to other Federal agencies on international trade, commodity, and direct investment functions to the extent necessary to assure the coordination of international trade policy;

(6) seek and promote new opportunities for United States products and services to compete in the world marketplace;

(7) assist small businesses in developing export markets;

(8) enforce the laws of the United States relating to trade;

(9) analyze economic trends and developments;

(10) report directly to the Congress—

(A) on the administration of, and matters pertaining to, the trade agreements program under the Omnibus Trade and Competitiveness Act of 1988, the Trade Act of 1974, the Trade Expansion Act of 1962, section 350 of the Tariff Act of 1930, and any other provision of law enacted after this Act; and

(B) with respect to other important issues pertaining to international trade;

(11) keep each official adviser to the United States delegations to international conferences, meetings, and negotiation sessions relating to trade agreements who is appointed from the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives under section 161 of the Trade Act of 1974 currently informed on United States negotiating objectives with respect to trade agreements, the status of negotiations in progress with respect to such agreements, and the nature of any changes in domestic law or the administration thereof which the USTR may recommend to the Congress to carry out any trade agreement;

(12) consult and cooperate with State and local governments and other interested parties on international trade matters of interest to such governments and parties, and to the extent related to international trade matters, on investment matters, and, when appropriate, hold informal public hearings;

(13) serve as the principal advisor to the President on Government policies designed to contribute to enhancing the ability of United States industry and services to compete in international markets;

(14) develop recommendations for national strategies and specific policies intended to enhance the productivity and international competitiveness of United States industries;

(15) serve as the principal advisor to the President in identifying and assessing the consequences of any Government policies that adversely affect, or have the potential to adversely affect, the international competitiveness of United States industries and services;

(16) promote cooperation between business, labor, and Government to improve industrial performance and the ability of United States industries to compete in international markets and to facilitate consultation and communication between the Government and the private sector about domestic industrial performance and prospects and the performance and prospects of foreign competitors; and

(17) monitor and enforce foreign government compliance with international trade

agreements to protect United States interests.

(b) INTERAGENCY ORGANIZATION.—The USTR shall be the chairperson of the interagency organization established under section 242 of the Trade Expansion Act of 1962.

(c) NATIONAL SECURITY COUNCIL.—The USTR shall be a member of the National Security Council.

(d) ADVISORY COUNCIL.—The USTR shall be Deputy Chairman of the National Advisory Council on International Monetary and Financial Policies established under Executive Order 11269, issued February 14, 1966.

(e) AGRICULTURE.—(1) The USTR shall consult with the Secretary of Agriculture or the designee of the Secretary of Agriculture on all matters that potentially involve international trade in agricultural products.

(2) If an international meeting for negotiation or consultation includes discussion of international trade in agricultural products, the USTR or the designee of the USTR shall be Chairman of the United States delegation to such meeting and the Secretary of Agriculture or the designee of such Secretary shall be Vice Chairman. The provisions of this paragraph shall not limit the authority of the USTR under subsection (h) to assign to the Secretary of Agriculture responsibility for the conduct of, or participation in, any trade negotiation or meeting.

(f) TRADE PROMOTION.—The USTR shall be the chairperson of the Trade Promotion Coordinating Committee.

(g) NATIONAL ECONOMIC COUNCIL.—The USTR shall be a member of the National Economic Council established under Executive Order No. 12835, issued January 25, 1993.

(h) INTERNATIONAL TRADE NEGOTIATIONS.—Except where expressly prohibited by law, the USTR, at the request or with the concurrence of the head of any other Federal agency, may assign the responsibility for conducting or participating in any specific international trade negotiation or meeting to the head of such agency whenever the USTR determines that the subject matter of such international trade negotiation is related to the functions carried out by such agency.

Subchapter B—Officers

SEC. 17321. DEPUTY ADMINISTRATOR OF THE OFFICE.

(a) ESTABLISHMENT.—There shall be in the Office the Deputy Administrator of the Office of the United States Trade Representative, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) ABSENCE, DISABILITY, OR VACANCY OF USTR.—The Deputy Administrator of the Office of the United States Trade Representative shall act for and exercise the functions of the USTR during the absence or disability of the USTR or in the event the office of the USTR becomes vacant. The Deputy Administrator shall act for and exercise the functions of the USTR until the absence or disability of the USTR no longer exists or a successor to the USTR has been appointed by the President and confirmed by the Senate.

(c) FUNCTIONS OF DEPUTY ADMINISTRATOR.—The Deputy Administrator of the Office of the United States Trade Representative shall exercise all functions, under the direction of the USTR, transferred to or established in the Office, except those functions exercised by the Deputy United States Trade Representatives, the Director General for Export Promotion, the Inspector General, and the General Counsel of the Office, as provided by this subtitle.

SEC. 17322. DEPUTY UNITED STATES TRADE REPRESENTATIVES.

(a) ESTABLISHMENT.—There shall be in the Office 2 Deputy United States Trade Representatives, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy United States Trade Representatives shall exercise all functions under the direction of the USTR, and shall include—

(1) the Deputy United States Trade Representative for Negotiations; and

(2) the Deputy United States Trade Representative to the World Trade Organization.

(b) FUNCTIONS OF DEPUTY UNITED STATES TRADE REPRESENTATIVES.—(1) The Deputy United States Trade Representative for Negotiations shall exercise all functions transferred under section 17331 and shall have the rank and status of Ambassador.

(2) The Deputy United States Trade Representative to the World Trade Organization shall exercise all functions relating to representation to the World Trade Organization and shall have the rank and status of Ambassador.

SEC. 17323. ASSISTANT ADMINISTRATORS.

(a) ESTABLISHMENT.—There shall be in the Office 3 Assistant Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Administrators shall exercise all functions under the direction of the Deputy Administrator of the Office of the United States Trade Representative and include—

(1) the Assistant Administrator for Export Administration;

(2) the Assistant Administrator for Import Administration; and

(3) the Assistant Administrator for Trade and Policy Analysis.

(b) FUNCTIONS OF ASSISTANT ADMINISTRATORS.—(1) The Assistant Administrator for Export Administration shall exercise all functions transferred under section 17332(1)(C).

(2) The Assistant Administrator for Import Administration shall exercise all functions transferred under section 17332(1)(D).

(3) The Assistant Administrator for Trade and Policy Analysis shall exercise all functions transferred under section 17332(1)(B) and all functions transferred under section 17332(2).

SEC. 17324. DIRECTOR GENERAL FOR EXPORT PROMOTION.

(a) ESTABLISHMENT.—There shall be a Director General for Export Promotion, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS.—The Director General for Export Promotion shall exercise, under the direction of the USTR, all functions transferred under sections 17332(1)(A) (relating to functions of the United States and Foreign Commercial Service) and 17333 and shall have the rank and status of Ambassador.

SEC. 17325. GENERAL COUNSEL.

There shall be in the Office a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall provide legal assistance to the USTR concerning the activities, programs, and policies of the Office.

SEC. 17326. INSPECTOR GENERAL.

There shall be in the Office an Inspector General who shall be appointed in accordance with the Inspector General Act of 1978, as amended by section 17371(b) of this Act.

SEC. 17327. CHIEF FINANCIAL OFFICER.

There shall be in the Office a Chief Financial Officer who shall be appointed in accordance with section 901 of title 31, United States Code, as amended by section 17371(e) of this Act. The Chief Financial Officer shall perform all functions prescribed by the Deputy Administrator of the Office of the United States Trade Representative, under the direction of the Deputy Administrator.

Subchapter C—Transfers to the Office

SEC. 17331. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

There are transferred to the USTR all functions of the United States Trade Representative and the Office of the United States Trade Representative in the Executive Office of the President and all functions of any officer or employee of such Office.

SEC. 17332. TRANSFERS FROM THE DEPARTMENT OF COMMERCE.

There are transferred to the USTR the following functions:

(1) All functions of, and all functions performed under the direction of, the following officers and employees of the Department of Commerce:

(A) The Under Secretary of Commerce for International Trade, and the Director General of the United States and Foreign Commercial Service, relating to all functions exercised by the Service.

(B) The Assistant Secretary of Commerce for International Economic Policy and the Assistant Secretary of Commerce for Trade Development.

(C) The Under Secretary of Commerce for Export Administration.

(D) The Assistant Secretary of Commerce for Import Administration.

(2) All functions of the Secretary of Commerce relating to the National Trade Data Bank.

(3) All functions of the Secretary of Commerce under the Tariff Act of 1930, the Uruguay Round Agreements Act, the Trade Act of 1974, and other trade-related Acts for which responsibility is not otherwise assigned under this subtitle.

SEC. 17333. TRADE AND DEVELOPMENT AGENCY.

There are transferred to the Director General for Export Promotion all functions of the Director of the Trade and Development Agency. There are transferred to the Office of the Director General for Export Promotion all functions of the Trade and Development Agency.

SEC. 17334. EXPORT-IMPORT BANK.

(a) IN GENERAL.—(1) There are transferred to the USTR all functions of the Secretary of Commerce relating to the Export-Import Bank of the United States.

(2) Section 3(c)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)(1)) is amended to read as follows:

''(c)(1) There shall be a Board of Directors of the Bank consisting of the United States Trade Representative (who shall serve as Chairman), the President of the Export-Import Bank of the United States (who shall serve as Vice Chairman), the first Vice President, and 2 additional persons appointed by the President of the United States, by and with the advice and consent of the Senate.''.

(b) EX OFFICIO MEMBER OF EXPORT-IMPORT BANK BOARD OF DIRECTORS.—The Director General for Export Promotion shall serve as an ex officio nonvoting member of the Board of Directors of the Export-Import Bank.

(c) AMENDMENTS TO RELATED BANKING AND TRADE ACTS.—Section 2301(h) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(h)) is amended to read as follows:

''(h) ASSISTANCE TO EXPORT-IMPORT BANK.—The Commercial Service shall provide such services as the Director General for Export Promotion of the Office of the United States Trade Representative determines necessary to assist the Export-Import Bank of the United States to carry out the lending, loan guarantee, insurance, and other activities of the Bank.''.

SEC. 17335. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) BOARD OF DIRECTORS.—The second and third sentences of section 233(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b))

are amended to read as follows: ''The United States Trade Representative shall be the Chairman of the Board. The Administrator of the Agency for International Development (who shall serve as Vice Chairman) shall serve on the Board.''.

(b) EX OFFICIO MEMBER OF OVERSEAS PRIVATE INVESTMENT CORPORATION BOARD OF DIRECTORS.—The Director General for Export Promotion shall serve as an ex officio nonvoting member of the Board of Directors of the Overseas Private Investment Corporation.

SEC. 17336. CONSOLIDATION OF EXPORT PROMOTION AND FINANCING ACTIVITIES.

(a) SUBMISSION OF PLAN.—Within 180 days after the date of the enactment of this Act, the President shall transmit to the Congress a comprehensive plan to consolidate Federal nonagricultural export promotion activities and export financing activities and to transfer those functions to the Office. The plan shall provide for—

(1) the elimination of the overlap and duplication among all Federal nonagricultural export promotion activities and export financing activities;

(2) a unified budget for Federal nonagricultural export promotion activities which eliminates funding for the areas of overlap and duplication identified under paragraph (1); and

(3) a long-term agenda for developing better cooperation between local, State and Federal programs and activities designed to stimulate or assist United States businesses in exporting nonagricultural goods or services that are products of the United States, including sharing of facilities, costs, and export market research data.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) place all Federal nonagricultural export promotion activities and export financing activities within the Office;

(2) provide clear authority for the USTR to use the expertise and assistance of other United States Government agencies;

(3) achieve an overall 25 percent reduction in the amount of funding for all Federal nonagricultural export promotion activities within 2 years after the enactment of this Act; and

(4) include any functions of the Department of Commerce not transferred by this subtitle, or of other Federal departments the transfer of which to the Office would be necessary to the competitiveness of the United States in international trade.

(c) DEFINITION.—As used in this section, the term ''Federal nonagricultural export promotion activities'' means all programs or activities of any department or agency of the Federal Government (including, but not limited to, departments and agencies with representatives on the Trade Promotion Coordinating Committee established under section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727)) that are designed to stimulate or assist United States businesses in exporting nonagricultural goods or services that are products of the United States, including trade missions.

SEC. 17337. ADDITIONAL TRADE FUNCTIONS.

(a) TERMINATION OF AUTHORIZATIONS OF APPROPRIATIONS.—

(1) NAFTA SECRETARIAT.—Section 105(b) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3315(b)) is amended by striking ''each fiscal year after fiscal year 1993'' and inserting ''each of fiscal years 1994 and 1995''.

(2) BORDER ENVIRONMENT COOPERATION COMMISSION.—Section 533(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473(a)(2)) is amended by striking ''and each fiscal year thereafter'' and inserting ''fiscal year 1995''.

(b) FUNCTIONS RELATED TO TEXTILE AGREEMENTS.—

(1) FUNCTIONS OF CITA.—(A) Subject to subparagraph (B), those functions delegated to the Committee for the Implementation of Textile Agreements established under Executive Order 11651 (7 U.S.C. 1854 note) (hereafter in this subsection referred to as ''CITA'') are transferred to the USTR.

(B) Those functions delegated to CITA that relate to the assessment of the impact of textile imports on domestic industry are transferred to the International Trade Commission.

(2) ABOLITION OF CITA.—CITA is abolished.

Subchapter D—Administrative Provisions

SEC. 17341. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The USTR may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the functions of the USTR and the Office. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) POSITIONS ABOVE GS–15.—(1) At the request of the USTR, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in a grade level above GS–15 of the General Service, and in the Senior Executive Service, of a number of positions in the Office equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred by this subtitle and which were assigned and filled on the day before the effective date of this subtitle.

(2) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this subtitle and, on the day before the effective date of this subtitle, holds a position and has duties comparable to those of the position to which appointed under this subsection.

(3) The authority under this subsection with respect to any position established at a grade level above GS–15 shall terminate when the person first appointed to fill such position ceases to hold such position.

(4) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day before the effective date of this subtitle.

(c) EXPERTS AND CONSULTANTS.—The USTR may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the maximum rate of pay for a position above GS–15 of the General Schedule under section 5332 of such title. The USTR may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

(d) VOLUNTARY SERVICES.—(1)(A) The USTR is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The USTR is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The USTR is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for individuals who provide voluntary services under subparagraph (A) or (B) of paragraph (1).

(3) An individual who provides voluntary services under paragraph (1)(A) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(e) FOREIGN SERVICE POSITIONS.—In order to assure United States representation in trade matters at a level commensurate with the level of representation maintained by industrial nations which are major trade competitors of the United States, the Secretary of State shall classify certain positions at Foreign Service posts as commercial minister positions and shall assign members of the Foreign Service performing functions of the Office, with the concurrence of the USTR, to such positions in nations which are major trade competitors of the United States. The Secretary of State shall obtain and use the recommendations of the USTR with respect to the number of positions to be so classified under this subsection.

SEC. 17342. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this subtitle, the USTR may delegate any of the functions transferred to the USTR by this subtitle and any function transferred or granted to the USTR after the effective date of this subtitle to such officers and employees of the Office as the USTR may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the USTR under this section or under any other provision of this subtitle shall relieve the USTR of responsibility for the administration of such functions.

SEC. 17343. SUCCESSION.

(a) ORDER OF SUCCESSION.—Subject to the authority of the President, and except as provided in section 17321(b), the USTR shall prescribe the order by which officers of the Office who are appointed by the President, by and with the advice and consent of the Senate, shall act for, and perform the functions of, the USTR or any other officer of the Office appointed by the President, by and with the advice and consent of the Senate, during the absence or disability of the USTR or such other officer, or in the event of a vacancy in the office of the USTR or such other officer.

(b) CONTINUATION.—Notwithstanding any other provision of law, and unless the President directs otherwise, an individual acting for the USTR or another officer of the Office pursuant to subsection (a) shall continue to serve in that capacity until the absence or disability of the USTR or such other officer no longer exists or a successor to the USTR or such other officer has been appointed by the President and confirmed by the Senate.

SEC. 17344. REORGANIZATION.

(a) IN GENERAL.—Subject to subsection (b), the USTR is authorized to allocate or reallocate functions among the officers of the Office, and to establish, consolidate, alter, or discontinue such organizational entities in the Office as may be necessary or appropriate.

(b) EXCEPTION.—The USTR may not exercise the authority under subsection (a) to establish, consolidate, alter, or discontinue any organizational entity in the Office or allocate or reallocate any function of an officer or employee of the Office that is inconsistent with any specific provision of this subtitle.

SEC. 17345. RULES.

The USTR is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the USTR determines necessary or appropriate to administer and manage the functions of the USTR or the Office.

SEC. 17346. FUNDS TRANSFER.

The USTR may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Office, except that no appropriation for any fiscal year shall be either increased or decreased by more than 10 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEC. 17347. CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the USTR may make, enter into, and perform such contracts, leases, cooperative agreements, grants, or other similar transactions with public agencies, private organizations, and persons, and make payments (in lump sum or installments, and by way of advance or reimbursement, and, in the case of any grant, with necessary adjustments on account of overpayments and underpayments) as the USTR considers necessary or appropriate to carry out the functions of the USTR or the Office.

(b) EXCEPTION.—Notwithstanding any other provision of this subtitle, the authority to enter into contracts or to make payments under this subchapter shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. This subsection does not apply with respect to the authority granted under section 17349.

SEC. 17348. USE OF FACILITIES.

(a) USE BY USTR.—With their consent, the USTR, with or without reimbursement, may use the research, services, equipment, and facilities of—

(1) an individual,

(2) any public or private nonprofit agency or organization, including any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States,

(3) any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or

(4) any foreign government,

in carrying out any function of the USTR or the Office.

(b) USE OF USTR FACILITIES.—The USTR, under terms, at rates, and for periods that the USTR considers to be in the public interest, may permit the use by public and private agencies, corporations, associations or other organizations, or individuals, of any real property, or any facility, structure or other improvement thereon, under the custody of the USTR. The USTR may require permittees under this section to maintain or recondition, at their own expense, the real property, facilities, structures, and improvements used by such permittees.

SEC. 17349. GIFTS AND BEQUESTS.

(a) IN GENERAL.—The USTR is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the United States Treasury in a separate fund and shall be disbursed on order of the USTR. Property accepted pursuant to this subsection, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(b) TAX TREATMENT.—For the purpose of Federal income, estate, and gift taxes, and State taxes, property accepted under subsection (a) shall be considered a gift or bequest to or for the use of the United States.

(c) INVESTMENT.—Upon the request of the USTR, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in subsection (a). Income accruing from such securities, and from any other property held by the USTR pursuant to subsection (a), shall be deposited to the credit of the fund, and shall be disbursed upon order of the USTR.

SEC. 17350. WORKING CAPITAL FUND.

(a) ESTABLISHMENT.—The USTR is authorized to establish for the Office a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the USTR shall find to be desirable in the interest of economy and efficiency, including—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Office and its components;

(2) central messenger, mail, and telephone service and other communications services;

(3) office space and central services for document reproduction and for graphics and visual aids;

(4) a central library service; and

(5) such other services as may be approved by the Director of the Office of Management and Budget.

(b) OPERATION OF FUND.—The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the USTR may transfer to the fund, less the related liabilities and unpaid obligations. The fund shall be reimbursed in advance from available funds of agencies and offices in the Office, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain the fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to those services which the USTR determines will be performed.

SEC. 17351. SERVICE CHARGES.

(a) AUTHORITY.—Notwithstanding any other provision of law, the USTR may establish reasonable fees and commissions with respect to applications, documents, awards, loans, grants, research data, services, and assistance administered by the Office, and the USTR may change and abolish such fees and commissions. Before establishing, changing, or abolishing any schedule of fees or commissions under this section, the USTR may submit such schedule to the Congress.

(b) DEPOSITS.—The USTR is authorized to require a deposit before the USTR provides any item, information, service, or assistance for which a fee or commission is required under this section.

(c) DEPOSIT OF MONEYS.—Moneys received under this section shall be deposited in the Treasury in a special account for use by the USTR and are authorized to be appropriated and made available until expended.

(d) FACTORS IN ESTABLISHING FEES AND COMMISSIONS.—In establishing reasonable fees or commissions under this section, the USTR may take into account—

(1) the actual costs which will be incurred in providing the items, information, services, or assistance concerned;

(2) the efficiency of the Government in providing such items, information, services, or assistance;

(3) the portion of the cost that will be incurred in providing such items, information, services, or assistance which may be attributed to benefits for the general public rather than exclusively for the person to whom the items, information, services, or assistance is provided;

(4) any public service which occurs through the provision of such items, information, services, or assistance; and

(5) such other factors as the USTR considers appropriate.

(e) REFUNDS OF EXCESS PAYMENTS.—In any case in which the USTR determines that any person has made a payment which is not required under this section or has made a payment which is in excess of the amount required under this section, the USTR, upon application or otherwise, may cause a refund to be made from applicable funds.

SEC. 17352. SEAL OF OFFICE.

The USTR shall cause a seal of office to be made for the Office of such design as the USTR shall approve. Judicial notice shall be taken of such seal.

Subchapter E—Related Agencies

SEC. 17361. INTERAGENCY TRADE ORGANIZATION.

Section 242(a)(3) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)(3)) is amended to read as follows:

''(3)(A) The interagency organization established under subsection (a) shall be composed of—

''(i) the United States Trade Representative, who shall be the chairperson,

''(ii) the Secretary of Agriculture,

''(iii) the Secretary of the Treasury,

''(iv) the Secretary of Labor,

''(v) the Secretary of State, and

''(vi) the representatives of such other departments and agencies as the United States Trade Representative shall designate.

''(B) The United States Trade Representative may invite representatives from other agencies, as appropriate, to attend particular meetings if subject matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the chairperson shall direct.''.

SEC. 17362. NATIONAL SECURITY COUNCIL.

The fourth paragraph of section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively; and

(2) by inserting after clause (4) the following new clause:

''(5) the United States Trade Representative;''.

SEC. 17363. INTERNATIONAL MONETARY FUND.

Section 3 of the Bretton Woods Agreement Act is amended by adding at the end the following new subsection:

''(e) The United States executive director of the Fund shall consult with the United States Trade Representative with respect to matters under consideration by the Fund which relate to trade.''.

Subchapter F—Conforming Amendments

SEC. 17371. AMENDMENTS TO GENERAL PROVISIONS.

(a) INSPECTOR GENERAL.—The Inspector General Act of 1978 is amended—

(1) in subsection 9(a)(1) by inserting after subparagraph (W) the following:

''(X) of the United States Trade Representative, all functions of the Inspector General of the Department of Commerce and the Office of the Inspector General of the Department of Commerce relating to the functions transferred to the United States Trade Representative by section 17332 of the Department of Commerce Dismantling Act; and''; and

(2) in section 11—

(A) in paragraph (1) by inserting ''the United States Trade Representative;'' after ''the Attorney General;''; and

(B) in paragraph (2) by inserting ''the Office of the United States Trade Representative,'' after ''Treasury;''.

(b) AMENDMENT TO THE TRADE ACT OF 1974.—(1) Chapter 4 of title I of the Trade Act of 1974 is amended to read as follows:

''CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

''SEC. 141. FUNCTIONS OF THE UNITED STATES TRADE REPRESENTATIVE.

''The United States Trade Representative established under section 17311 of the Department of Commerce Dismantling Act shall—

''(1) be the chief representative of the United States for each trade negotiation under this title or chapter 1 of title III of this Act, or subtitle A of title I of the Omnibus Trade and Competitiveness Act of 1988, or any other provision of law enacted after the Department of Commerce Dismantling Act;

''(2) report directly to the President and the Congress, and be responsible to the President and the Congress for the administration of trade agreements programs under this Act, the Omnibus Trade and Competitiveness Act of 1988, the Trade Expansion Act of 1962, section 350 of the Tariff Act of 1930, and any other provision of law enacted after the Department of Commerce Dismantling Act;

''(3) advise the President and the Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs; and

''(4) be responsible for making reports to Congress with respect to the matters set forth in paragraphs (1) and (2).''.

(2) The table of contents in the first section of the Trade Act of 1974 is amended by striking the items relating to chapter 4 and section 141 and inserting the following:

''CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

''Sec. 141. Functions of the United States Trade Representative.''.

(d) FOREIGN SERVICE PERSONNEL.—The Foreign Service Act of 1980 is amended by striking paragraph (3) of section 202(a) (22 U.S.C. 3922(a)) and inserting the following:

''(3) The United States Trade Representative may utilize the Foreign Service personnel system in accordance with this Act—

''(A) with respect to the personnel performing functions—

''(i) which were transferred to the Department of Commerce from the Department of State by Reorganization Plan No. 3 of 1979; and

''(ii) which were subsequently transferred to the United States Trade Representative by section 17332 of the Department of Commerce Dismantling Act; and

''(B) with respect to other personnel of the Office of United States Trade Representative to the extent the President determines to be necessary in order to enable the Office of the United States Trade Representative to carry out functions which require service abroad.''.

(e) CHIEF FINANCIAL OFFICERS.—Section 901(b)(1) of title 31, United States Code, is amended by adding at the end the following:

''(Q) The Office of the United States Trade Representative.''.

SEC. 17372. REPEALS.

Sections 1 and 2 of the Act of June 5, 1939 (15 U.S.C. 1502 and 1503; 53 Stat. 808), relating to the Under Secretary of Commerce, are repealed.

SEC. 17373. CONFORMING AMENDMENTS RELATING TO EXECUTIVE SCHEDULE POSITIONS.

(a) POSITIONS AT LEVEL I.—Section 5312 of title 5, United States Code, is amended by amending the item relating to the United States Trade Representative to read as follows:

''United States Trade Representative, Office of the United States Trade Representative.''.

(b) POSITIONS AT LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Administrator of the Office of the United States Trade Representative.

''Deputy United States Trade Representatives, Office of the United States Trade Representative (2).''.

(c) POSITIONS AT LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Administrators, Office of the United States Trade Representative (3).

''Director General for Export Promotion, Office of the United States Trade Representative.''.

(d) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking the item relating to the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service; and

(2) by adding at the end the following:

''General Counsel, Office of the United States Trade Representative.

''Inspector General, Office of the United States Trade Representative.

''Chief Financial Officer, Office of the United States Trade Representative.''.

Subchapter G—Miscellaneous

SEC. 17381. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall take effect on the effective date specified in section 17209(a), except that—

(1) section 17336 shall take effect on the date of the enactment of this Act; and

(2) at any time after the date of the enactment of this Act the officers provided for in subchapter B may be nominated and appointed, as provided in such subchapter.

(b) INTERIM COMPENSATION AND EXPENSES.—Funds available to the Department of Commerce or the Office of the United States Trade Representative (or any official or component thereof), with respect to the functions transferred by this subtitle, may be used, with approval of the Director of the Office of Management and Budget, to pay the compensation and expenses of an officer appointed under subsection (a) who will carry out such functions until funds for that purpose are otherwise available.

SEC. 17382. INTERIM APPOINTMENTS.

(a) IN GENERAL.—If one or more officers required by this subtitle to be appointed by and with the advice and consent of the Senate have not entered upon office on the effective date of this subtitle and notwithstanding any other provision of law, the President may designate any officer who was appointed by and with the advice and consent of the Senate, and who was such an officer on the day before the effective date of this subtitle, to act in the office until it is filled as provided by this subtitle.

(b) COMPENSATION.—Any officer acting in an office pursuant to subsection (a) shall receive compensation at the rate prescribed by this subtitle for such office.

SEC. 17383. FUNDING REDUCTIONS RESULTING FROM REORGANIZATION.

(a) FUNDING REDUCTIONS.—Except as provided in subsection (b), for each fiscal year that begins on or after the effective date of this section, the total of amounts obligated or expended by the United States in performing all functions vested in the USTR and the Office pursuant to this subtitle may not exceed 75 percent of the total amount obligated or expended by the United States in performing all such functions for fiscal year 1995.

(b) EXCEPTION.—Subsection (a) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in subsection (a) pursuant to this title.

(c) RULE OF CONSTRUCTION.—This section shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(d) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall—

(1) ensure compliance with the requirements of this section; and

(2) include in each report under sections 17106(a) and (b) a description of actions taken to comply with such requirements.

Subtitle D—Patent and Trademark Office Corporation

SEC. 17401. SHORT TITLE.

This subtitle may be cited as the ''Patent and Trademark Office Corporation Act of 1995''.

CHAPTER 1—PATENT AND TRADEMARK OFFICE

SEC. 17411. ESTABLISHMENT OF PATENT AND TRADEMARK OFFICE AS A CORPORATION.

Section 1 of title 35, United States Code, is amended to read as follows:

''§ 1. Establishment

''(a) ESTABLISHMENT.—The Patent and Trademark Office is established as a wholly owned Government corporation subject to chapter 91 of title 31, except as otherwise provided in this title.

''(b) OFFICES.—The Patent and Trademark Office shall maintain an office in the District of Columbia, or the metropolitan area thereof, for the service of process and papers and shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located. The Patent and Trademark Office may establish offices in such other places as it considers necessary or appropriate in the conduct of its business.

''(c) REFERENCE.—For purposes of this title, the Patent and Trademark Office shall also be referred to as the 'Office'.''.

SEC. 17412. POWERS AND DUTIES.

Section 2 of title 35, United States Code, is amended to read as follows:

''§ 2. Powers and Duties

''(a) IN GENERAL.—The Patent and Trademark Office shall be responsible for—

''(1) the granting and issuing of patents and the registration of trademarks;

''(2) conducting studies, programs, or exchanges of items or services regarding domestic and international patent and trademark law or the administration of the Office, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

''(3) authorizing or conducting studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with the granting and issuing of patents and the registration of trademarks; and

''(4) disseminating to the public information with respect to patents and trademarks.

''(b) SPECIFIC POWERS.—The Office—

''(1) shall have perpetual succession;

''(2) shall adopt and use a corporate seal, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Office shall be authenticated;

''(3) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings, subject to the provisions of section 8 of this title;

''(4) may indemnify the Commissioner of Patents and Trademarks, and other officers, attorneys, agents, and employees (including members of the Management Advisory Board established in section 5) of the Office for liabilities and expenses incurred within the scope of their employment;

''(5) may adopt, amend, and repeal bylaws, rules, and regulations, governing the manner in which its business will be conducted and the powers granted to it by law will be exercised;

''(6) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

''(7)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759); and

''(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Office, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

''(8) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Office;

''(9) may obtain from the Administrator of General Services such services as the Administrator is authorized to provide to other agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

''(10) may use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform functions on its behalf;

''(11) may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946');

''(12) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Office, in carrying out the functions of the Office, including for research and development and capital investment, subject to the provisions of section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note);

''(13) shall have the priority of the United States with respect to the payment of debts from bankrupt, insolvent, and decedents' estates;

''(14) may accept monetary gifts or donations of services, or of real, personal, or mixed property, in order to carry out the functions of the Office;

''(15) may execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers;

''(16) may provide for liability insurance and insurance against any loss in connection with its property, other assets, or operations either by contract or by self-insurance; and

''(17) shall pay any settlement or judgment entered against it from the funds of the Office and not from amounts available under section 1304 of title 31.''.

SEC. 17413. ORGANIZATION AND MANAGEMENT.

Section 3 of title 35, United States Code, is amended to read as follows:

''§ 3. Officers and employees

''(a) COMMISSIONER.—

''(1) IN GENERAL.—The management of the Patent and Trademark Office shall be vested in a Commissioner of Patents and Trademarks (hereafter in this title referred to as the 'Commissioner'), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner shall be a person who, by reason of professional background and experience in patent and trademark law, is especially qualified to manage the Office.

''(2) DUTIES.—

''(A) IN GENERAL.—The Commissioner shall be responsible for the management and direction of the Office, including the issuance of patents and the registration of trademarks.

''(B) ADVISING THE PRESIDENT.—The Commissioner shall advise the President of all activities of the Patent and Trademark Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents or registering trademarks. The Commissioner shall also recommend to the President changes in law or policy which may improve the ability of United States citizens to secure and enforce patent rights or trademark rights in the United States or in foreign countries.

''(C) CONSULTING WITH THE MANAGEMENT ADVISORY BOARD.—The Commissioner shall consult with the Management Advisory Board established in section 5 on a regular basis on matters relating to the operation of the Patent and Trademark Office, and shall consult with the Board before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations.

''(D) SECURITY CLEARANCES.—The Commissioner, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances.

''(3) TERM.—The Commissioner shall serve a term of 5 years, and may continue to serve after the expiration of the Commissioner's term until a successor is appointed and assumes office. The Commissioner may be reappointed to subsequent terms.

''(4) OATH.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

''(5) COMPENSATION.—The Commissioner shall receive compensation at the rate of pay in effect for Level III of the Executive Schedule under section 5314 of title 5.

''(6) REMOVAL.—The Commissioner may be removed from office by the President only for cause.

''(7) DESIGNEE OF COMMISSIONER.—The Commissioner shall designate an officer of the Office who shall be vested with the authority to act in the capacity of the Commissioner in the event of the absence or incapacity of the Commissioner.

''(b) OFFICERS AND EMPLOYEES OF THE OFFICE.—

''(1) DEPUTY COMMISSIONERS.—The Commissioner shall appoint a Deputy Commissioner for Patents and a Deputy Commissioner for Trademarks for terms that shall expire on the date on which the Commissioner's term expires. The Deputy Commissioner for Patents shall be a person with demonstrated experience in patent law and the Deputy Commissioner for Trademarks shall be a person with demonstrated experience in trademark law. The Deputy Commissioner for Patents and the Deputy Commissioner for Trademarks shall be the principal policy advisors to the Commissioner on all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively.

''(2) OTHER OFFICERS AND EMPLOYEES.—The Commissioner shall—

''(A) appoint an Inspector General and such other officers, employees (including attorneys), and agents of the Office as the Commissioner considers necessary to carry out its functions;

''(B) fix the compensation of such officers and employees; and

''(C) define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Commissioner may determine.

The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation, except to the extent otherwise specifically provided by statute with respect to the Office.

''(c) LIMITS ON COMPENSATION.—Except as otherwise provided in this title or any other provision of law, the basic pay of an officer or employee of the Office for any calendar year may not exceed the annual rate of basic pay in effect for level IV of the Executive Schedule under section 5315 of title 5. The Commissioner shall by regulation establish a limitation on the total compensation payable to officers or employees of the Office, which may not exceed the annual rate of basic pay in effect for level I of the Executive Schedule under section 5312 of title 5.

''(d) INAPPLICABILITY OF TITLE 5 GENERALLY.—Except as otherwise provided in this section, officers and employees of the Office shall not be subject to the provisions of title 5 relating to Federal employees.

''(e) CONTINUED APPLICABILITY OF CERTAIN PROVISION OF TITLE 5.—The following provisions of title 5 shall apply to the Office and its officers and employees:

''(1) Section 3110 (relating to employment of relatives; restrictions).

''(2) Subchapter II of chapter 55 (relating to withholding pay).

''(3) Subchapter II of chapter 73 (relating to employment limitations).

''(f) PROVISIONS OF TITLE 5 RELATING TO CERTAIN BENEFITS.—

''(1) RETIREMENT.—(A)(i) Any individual who becomes an officer or employee of the Office pursuant to subsection (h) shall, if such individual has at least 3 years of creditable service (within the meaning of section 8332 or 8411 of title 5) as of the effective date of the Patent and Trademark Office Corporation Act of 1995, remain subject to subchapter III of chapter 83 or chapter 84 of such title, as the case may be, so long as such individual continues to hold an office or position in or under the Office without a break in service.

''(ii)(I) Except as provided in subclause (II), with respect to an individual described in clause (i), the Office shall make the appropriate withholding from pay and shall pay the contributions required of an employing agency into the Civil Service Retirement and Disability Fund and, if applicable, the Thrift Savings Fund in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, as the case may be.

''(II) In the case of an officer or employee who remains subject to subchapter III of chapter 83 of such title by virtue of this subparagraph, the Office shall, instead of the amount which would otherwise be required under the second sentence of section 8334(a)(1) of title 5, contribute an amount equal to the normal-cost percentage (determined with respect to officers and employees of the Office using dynamic assumptions, as defined by section 8401(9) of such title) of the individual's basic pay, minus the amount required to be withheld from such pay under such section 8334(a)(1).

''(B)(i) Notwithstanding subsection (d), the provisions of subchapter III of chapter 83 or chapter 84 of title 5 (as applicable) which relate to disability shall be considered to remain in effect, with respect to an individual who becomes an officer or employee of the Office pursuant to subsection (h), until the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995 or, if earlier, until such individual satisfies the prerequisites for coverage under any program offered by the Office to replace the disability retirement program under chapter 83 or 84 of title 5.

''(ii) This clause applies with respect to any officer or employee of the Office who is receiving disability coverage under this subparagraph and has completed the service requirement specified in the first sentence of section 8337(a) or 8451(a)(1)(A) of title 5 (as applicable), but who is not described in subparagraph (A)(i). In the case of any individual to whom this clause applies, the Office shall pay into the Civil Service Retirement and Disability Fund an amount equal to that portion of the normal-cost percentage (determined in the same manner as under subparagraph (A)(ii)(II)) of the basic pay of such individual (for service performed during the period during which such individual is receiving such coverage) allocable to such coverage. Any amounts payable under this clause shall be paid at such time and in such manner as mutually agreed to by the Office and the Office of Personnel Management, and shall be in lieu of any individual or agency contributions otherwise required.

''(2) HEALTH BENEFITS.—(A) Officers and employees of the Office shall not become ineligible to participate in the health benefits program under chapter 89 of title 5 by reason of subsection (d) until the effective date of elections made during the first election period (under section 8905(f) of title 5) beginning after the end of the 2-year period beginning on the effective date of the the Patent and Trademark Office Corporation Act of 1995.

''(B)(i) With respect to any individual who becomes an officer or employee of the Office pursuant to subsection (h), the eligibility of such individual to participate in such program as an annuitant (or of any other person to participate in such program as an annuitant based on the death of such individual) shall be determined disregarding the requirements of section 8905(b) of title 5. The preceding sentence shall not apply if the individual ceases to be an officer or employee of the Office for any period of time after becoming an officer or employee of the Office pursuant to subsection (h) and before separation.

''(ii) The Government contributions authorized by section 8906 for health benefits for anyone participating in the health benefits program pursuant to this subparagraph shall be made by the Office in the same manner as provided under section 8906(g)(2) of title 5 with respect to the United States Postal Service for individuals associated therewith.

''(iii) For purposes of this subparagraph, the term 'annuitant' has the meaning given such term by section 8901(3) of title 5.

''(3) LIFE INSURANCE.—(A) Officers and employees of the Office shall not become ineligible to participate in the life insurance program under chapter 87 of title 5 by reason of subsection (d) until the first day after the end of the 2-year period beginning on the effective date of the the Patent and Trademark Office Corporation Act of 1995.

''(B)(i) Eligibility for life insurance coverage after retirement or while in receipt of compensation under subchapter I of chapter 81 of title 5 shall be determined, in the case of any individual who becomes an officer or employee of the Office pursuant to subsection (h), without regard to the requirements of section 8706(b) (1) or (2), but subject to the condition specified in the last sentence of paragraph (2)(B)(i) of this subsection.

''(ii) Government contributions under section 8708(d) on behalf of any such individual shall be made by the Office in the same manner as provided under paragraph (3) thereof with respect to the United States Postal Service for individuals associated therewith.

''(4) EMPLOYEES' COMPENSATION FUND.—The Office shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, for compensation paid or payable after the effective date of the Patent and Trademark Office Corporation Act of 1995 in accordance with chapter 81 of title 5 with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

''(5) REQUIREMENT THAT THE OFFICE OFFER CERTAIN MINIMUM NUMBER OF LIFE AND HEALTH INSURANCE POLICIES.—The Office shall offer at least 1 life insurance policy and at least 3 health insurance policies to its officers and employees, comparable to existing Federal benefits, beginning on the first day after the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995.

''(g) LABOR-MANAGEMENT RELATIONS.—

''(1) LABOR RELATIONS AND EMPLOYEE RELATIONS PROGRAMS.—The Office shall develop labor relations and employee relations programs with the objective of improving productivity and efficiency, incorporating the following principles:

''(A) Such programs shall be consistent with the merit principles in section 2301(b) of title 5.

''(B) Such programs shall provide veterans preference protections equivalent to those established by sections 2801, 3308–3318, and 3320 of title 5.

''(C)(i) In order to maximize individual freedom of choice in the pursuit of employment and to encourage an economic climate conducive to economic growth, the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

''(ii) No person shall be required, as a condition of employment or continuation of employment:

''(I) To resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization.

''(II) To become or remain a member of a labor organization.

''(III) To pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization.

''(IV) To pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization.

''(V) To be recommended, approved, referred, or cleared by or through a labor organization.

''(iii) This subparagraph shall not apply to a person described in section 7103(a)(2)(v) of title 5 or a 'supervisor', 'management official', or 'confidential employee' as those terms are defined in 7103(a)(10), (11), and (13) of such title.

''(iv) Any labor organization recognized by the Office as the exclusive representative of a unit of employees of the Office shall represent the interests of all employees in that unit without discrimination and without regard to labor organization membership.

''(2) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Office shall adopt all labor agreements which are in effect, as of the day before the effective date of the Patent and Trademark Office Corporation Act of 1995, with respect to such Office (as then in effect). Each such agreement shall remain in effect for the 2-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree otherwise before such period ends.

''(h) CARRYOVER OF PERSONNEL.—

''(1) FROM PTO.—Effective as of the effective date of the Patent and Trademark Office Corporation Act of 1995, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Office, without a break in service.

''(2) OTHER PERSONNEL.—Any individual who, on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Office if—

''(A) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

''(B) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

''(C) such transfer would be in the interest of the Office, as determined by the Secretary of Commerce in consultation with the Commissioner of Patents and Trademarks.

Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

''(3) ACCUMULATED LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5 before the effective date described in paragraph (1), by officers or employees of the Patent and Trademark Office who so become officers or employees of the Office, are obligations of the Office.

''(4) TERMINATION RIGHTS.—Any employee referred to in paragraph (1) or (2) of this subsection whose employment with the Office is terminated during the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995 shall be entitled to rights and benefits, to be afforded by the Office, similar to those such employee would have had under Federal law if termination had occurred immediately before such date. An employee who would have been entitled to appeal any such termination to the Merit Systems Protection Board, if such termination had occurred immediately before such effective date, may appeal any such termination occurring within this 2-year period to the Board under such procedures as it may prescribe.

''(5) CONTINUATION IN OFFICE OF CERTAIN OFFICERS.—(A) The individual serving as the Commissioner of Patents and Trademarks on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Commissioner until the earlier of 1 year after the effective date of that Act or the date on which a Commissioner is appointed under subsection (a).

''(B) The individual serving as the Assistant Commissioner for Patents on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Deputy Commissioner for Patents until the earlier of 1 year after the effective date of that Act or the date on which a Deputy Commissioner for Patents is appointed under subsection (b).

''(C) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Deputy Commissioner for Trademarks until the earlier of 1 year after the effective date of that Act or the date on which a Deputy Commissioner for Trademarks is appointed under subsection (b).

''(i) COMPETITIVE STATUS.—For purposes of appointment to a position in the competitive service for which an officer or employee of the Office is qualified, such officer or employee shall not forfeit any competitive status, acquired by such officer or employee before the effective date of the Patent and Trademark Office Corporation Act of 1995, by reason of becoming an officer or employee of the Office pursuant to subsection (h).

''(j) SAVINGS PROVISIONS.—All orders, determinations, rules, and regulations regarding compensation and benefits and other terms and conditions of employment, in effect for the Office and its officers and employees immediately before the effective date of the Patent and Trademark Office Corporation Act of 1995, shall continue in effect with respect to the Office and its officers and employees until modified, superseded, or set aside by the Office or a court of appropriate jurisdiction or by operation of law.''.

SEC. 17414. MANAGEMENT ADVISORY BOARD.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

''§5. Patent and Trademark Office Management Advisory Board

''(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

''(1) APPOINTMENT.—The Patent and Trademark Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Board') of 12 members, 4 of whom shall be appointed by the President, 4 of whom shall be appointed by the Speaker of the House of Representatives, and 4 of whom shall be appointed by the President pro tempore of the Senate. Not more than 3 of the 4 members appointed by each appointing authority shall be members of the same political party.

''(2) TERMS.—Members of the Board shall be appointed for a term of 4 years each, except that of the members first appointed by each appointing authority, 1 shall be for a term of 1 year, 1 shall be for a term of 2 years, and 1 shall be for a term of 3 years. No member may serve more than 1 term.

''(3) CHAIR.—The President shall designate the chair of the Board, whose term as chair shall be for 3 years.

''(4) TIMING OF APPOINTMENTS.—Initial appointments to the Board shall be made within 3 months after the effective date of the Patent and Trademark Office Corporation Act of 1995, and vacancies shall be filled within 3 months after they occur.

''(5) VACANCIES.—Vacancies shall be filled in the manner in which the original appointment was made under this subsection. Members appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor is appointed.

''(b) BASIS FOR APPOINTMENTS.—Members of the Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the Patent and Trademark Office, and shall include individuals with substantial background and achievement in corporate finance and management.

''(c) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of the Board shall be special Government employees within the meaning of section 202 of title 18.

''(d) MEETINGS.—The Board shall meet at the call of the chair to consider an agenda set by the chair.

''(e) DUTIES.—The Board shall—

''(1) review the policies, goals, performance, budget, and user fees of the Patent and Trademark Office, and advise the Commissioner on these matters; and

''(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to in paragraph (1), transmit the report to the President and the Committees on the Judiciary of the Senate and the House of Representatives, and publish the report in the Patent and Trademark Office Official Gazette.

''(f) STAFF.—The Board shall employ a staff of not more than 10 members and shall procure support services for the staff adequate to enable the Board to carry out its functions, using funds available to the Commissioner under section 42 of this title. The Board shall ensure that members of the staff, other than clerical staff, are especially qualified in the areas of patents, trademarks, or management of public agencies. Persons employed by the Board shall receive compensation as determined by the Board, which may not exceed the limitations set forth in section 3(c) of this title, shall serve in accordance with terms and conditions of employment established by the Board, and shall be subject solely to the direction of the Board, notwithstanding any other provision of law.

''(g) COMPENSATION.—Members of the Board shall be compensated for each day (including travel time) during which they are attending meetings or conferences of the Board or otherwise engaged in the business of the Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

''(h) ACCESS TO INFORMATION.—Members of the Board shall be provided access to records and information in the Patent and Trademark Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122 of this title.''.

SEC. 17415. INDEPENDENCE FROM DEPARTMENT OF COMMERCE.

(a) DUTIES OF COMMISSIONER.—Section 6 of title 35, United States Code, is amended—

(1) by striking '', under the direction of the Secretary of Commerce,'' each place it appears; and

(2) by striking '', subject to the approval of the Secretary of Commerce,''.

(b) REGULATIONS FOR AGENTS AND ATTORNEYS.—Section 31 of title 35, United States Code, is amended by striking '', subject to the approval of the Secretary of Commerce,''.

SEC. 17416. TRADEMARK TRIAL AND APPEAL BOARD.

Section 17 of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1067) is amended to read as follows:

''SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Commissioner shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

''(b) The Trademark Trial and Appeal Board shall include the Commissioner, the Deputy Commissioner for Patents, the Deputy Commissioner for Trademarks, and members competent in trademark law who are appointed by the Commissioner.''.

SEC. 17417. BOARD OF PATENT APPEALS AND INTERFERENCES.

Section 7 of title 35, United States Code, is amended to read as follows:

''§7. Board of Patent Appeals and Interferences

''(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the Patent and Trademark Office a Board of Patent Appeals and Interferences. The Commissioner, the Deputy Commissioner for Patents, the Deputy Commissioner for Trademarks, and the examiners-in-chief shall constitute the Board. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

''(b) DUTIES.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title. Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Commissioner. Only the Board of Patent Appeals and Interferences may grant rehearings.''.

SEC. 17418. SUITS BY AND AGAINST THE CORPORATION.

Chapter 1 of part I of title 35, United States Code, is amended—

(1) by redesignating sections 8 through 14 as sections 9 through 15; and

(2) by inserting after section 7 the following new section:

"§ 8. Suits by and against the Corporation

''(a) IN GENERAL.—

''(1) ACTIONS UNDER UNITED STATES LAW.—Any civil action or proceeding to which the Patent and Trademark Office is a party is deemed to arise under the laws of the United States. The Federal courts shall have exclusive jurisdiction over all civil actions by or against the Office.

''(2) CONTRACT CLAIMS.—Any action or proceeding against the Office in which any claim is cognizable under the Contract Disputes Act of 1978 (41 U.S.C. 601 and following) shall be subject to that Act. For purposes of that Act, the Commissioner shall be deemed to be the agency head with respect to contract claims arising with respect to the Office. Any other action or proceeding against the Office founded upon contract may be brought in an appropriate district court, notwithstanding any provision of title 28.

''(3) TORT CLAIMS.—(A) Any action or proceeding against the Office in which any claim is cognizable under the provisions of section 1346(b) and chapter 171 of title 28, shall be governed by those provisions.

''(B) Any other action or proceeding against the Office founded upon tort may be brought in an appropriate district court without regard to the provisions of section 1346(b) and chapter 171 of title 28.

''(4) PROHIBITION ON ATTACHMENT, LIENS, ETC.—No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Office.

''(5) SUBSTITUTION OF OFFICE AS PARTY.—The Office shall be substituted as defendant in any civil action or proceeding against an officer or employee of the Office, if the Office determines that the officer or employee was acting within the scope of his or her employment with the Office. If the Office refuses to certify scope of employment, the officer or employee may at any time before trial petition the court to find and certify that the officer or employee was acting within the scope of his or her employment. Upon certification by the court, the Office shall be substituted as the party defendant. A copy of the petition shall be served upon the Office. In any such civil action or proceeding to which paragraph (3)(A) applies, the provisions of section 1346(b) and chapter 171 of title 28 shall apply in lieu of this paragraph.

''(b) RELATIONSHIP WITH JUSTICE DEPARTMENT.—

''(1) EXERCISE BY OFFICE OF ATTORNEY GENERAL'S AUTHORITIES.—Except as provided in this section, with respect to any action or proceeding in which the Office is a party or an officer or employee thereof is a party in his or her official capacity, the Office, officer, or employee may exercise, without prior authorization from the Attorney General, the authorities and duties that otherwise would be exercised by the Attorney General on behalf of the Office, officer, or employee under title 28 and other laws.

''(2) APPEARANCES BY ATTORNEY GENERAL.—Notwithstanding paragraph (1), at any time the Attorney General may, in any action or proceeding described in paragraph (1), file an appearance on behalf of the Office or the officer or employee involved, without the consent of the Office or the officer or employee. Upon such filing, the Attorney General shall represent the Office or such officer or employee with exclusive authority in the conduct, settlement, or compromise of that action or proceeding.

''(3) CONSULTATIONS WITH AND ASSISTANCE BY ATTORNEY GENERAL.—The Office may consult with the Attorney General concerning any legal matter, and the Attorney General shall provide advice and assistance to the Office, including representing the Office in litigation, if requested by the Office.

''(4) REPRESENTATION BEFORE SUPREME COURT.—The Attorney General shall represent the Office in all cases before the United States Supreme Court.

''(5) QUALIFICATIONS OF ATTORNEYS.—An attorney admitted to practice to the bar of the highest court of at least one State in the United States or the District of Columbia and employed by the Office may represent the Office in any legal proceeding in which the Office or an officer or employee of the Office is a party or interested, regardless of whether the attorney is a resident of the jurisdiction in which the proceeding is held and notwithstanding any other prerequisites of qualification or appearance required by the court or administrative body before which the proceeding is conducted.''.

SEC. 17419. ANNUAL REPORT OF COMMISSIONER.

Section 15 of title 35, United States Code, as redesignated by section 17418 of this Act, is amended to read as follows:

"§ 15. Annual report to Congress

''The Commissioner shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, and other information relating to the Office. The report under this section shall also meet the requirements of section 9106 of title 31, to the extent that such requirements are not inconsistent with the preceding sentence. The report required under this section shall be deemed to be the report of the Patent and Trademark Office under section 9106 of title 31, and the Commissioner shall not file a separate report under such section.''.

SEC. 17420. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sentence the following: ''The Commissioner shall have the discretion to designate any attorney who is an officer or employee of the Patent and Trademark Office to conduct the hearing required by this section.''.

SEC. 17421. FUNDING.

Section 42 of title 35, United States Code, is amended to read as follows:

"§ 42. Patent and Trademark Office funding

''(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the Patent and Trademark Office shall be payable to the Office.

''(b) USE OF MONEYS.—Moneys of the Patent and Trademark Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Commissioner under this title shall be used exclusively for the processing of patent applications and for other services and materials relating to patents. Fees available to the Commissioner under section 31 of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1113), shall be used exclusively for the processing of trademark registrations and for other services and materials relating to trademarks.

''(c) BORROWING AUTHORITY.—The Patent and Trademark Office is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (hereafter in this subsection referred to as 'obligations') to assist in financing its activities. Borrowing under this subsection shall be subject to prior approval in appropriation Acts. Such borrowing shall not exceed amounts approved in appropriation Acts. Any such borrowing shall be repaid only from fees paid to the Office and surcharges appropriated by the Congress. Such obligations shall be redeemable at the option of the Office before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the Office with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligations of the Office issued under this subsection and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this subsection of the purchase price of such obligations of the Patent and Trademark Office shall be treated as public debt transactions of the United States.''.

SEC. 17422. AUDITS.

Chapter 4 of part I of title 35, United States Code, is amended by adding at the end the following new section:

"§ 43. Audits

''(a) IN GENERAL.—Financial statements of the Patent and Trademark Office shall be prepared on an annual basis in accordance with generally accepted accounting principles. Such statements shall be audited by an independent certified public accountant chosen by the Commissioner. The audit shall be conducted in accordance with standards that are consistent with generally accepted Government auditing standards and other standards established by the Comptroller General, and with the generally accepted auditing standards of the private sector, to the extent feasible. The Commissioner shall transmit to the Committees on the Judiciary of the House of Representatives and the Senate the results of each audit under this subsection.

''(b) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General may review any audit of the financial statement of the Patent and Trademark Office that is conducted under subsection (a). The Comptroller General shall report to the Congress and the Office the results of any such review and shall include in such report appropriate recommendations.

''(c) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General may audit the financial statements of the Office and such audit shall be in lieu of the audit required by subsection (a). The Office shall reimburse the Comptroller General for the cost of any audit conducted under this subsection.

''(d) ACCESS TO OFFICE RECORDS.—All books, financial records, report files, memoranda, and other property that the Comptroller General deems necessary for the performance of any audit shall be made available to the Comptroller General.

''(e) APPLICABILITY IN LIEU OF TITLE 31 PROVISIONS.—This section applies to the Office in lieu of the provisions of section 9105 of title 31.''.

SEC. 17423. TRANSFERS.

(a) TRANSFER OF FUNCTIONS.—Except as otherwise provided in this Act, there are transferred to, and vested in, the Patent and Trademark Office all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in the officers or components in the Department of Commerce with respect to the authority to grant patents and register

trademarks, and in the Patent and Trademark Office, as in effect on the day before the effective date of this subtitle, and in the officers and components of such Office.

(b) TRANSFER OF FUNDS AND PROPERTY.—The Secretary of Commerce shall transfer to the Patent and Trademark Office, on the effective date of this subtitle, so much of the assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Commerce, including funds set aside for accounts receivable which are related to functions, powers, and duties which are vested in the Patent and Trademark Office by this subtitle.

CHAPTER 2—EFFECTIVE DATE; TECHNICAL AMENDMENTS

SEC. 17431. EFFECTIVE DATE.

This subtitle shall take effect 6 months after the date of the enactment of this Act.

SEC. 17432. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) The table of contents for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

''1. Establishment, Officers and Employees, Functions ..... 1.''

(2) The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

''CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

''Sec.
''1. Establishment.
''2. Powers and duties.
''3. Officers and employees.
''4. Restrictions on officers and employees as to interest in patents.
''5. Patent and Trademark Office Management Advisory Board.
''6. Duties of Commissioner.
''7. Board of Patent Appeals and Interferences.
''8. Suits by and against the Corporation.
''9. Library.
''10. Classification of patents.
''11. Certified copies of records.
''12. Publications.
''13. Exchange of copies of patents with foreign countries.
''14. Copies of patents for public libraries.
''15. Annual report to Congress.''.

(3) The table of contents for chapter 4 of part I of title 35, United States Code, is amended by adding at the end the following new item:

''43. Audits.''.

(b) OTHER PROVISIONS OF LAW.—

(1) Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

''(O) the Patent and Trademark Office.''.

(2) Section 500(e) of title 5, United States Code, is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(3) Section 5102(c)(23) of title 5, United States Code, is amended by striking ''Department of Commerce''.

(4) Section 5316 of title 5, United States Code (5 U.S.C. 5316) is amended by striking ''Commissioner of Patents, Department of Commerce.'', ''Deputy Commissioner of Patents and Trademarks.'', ''Assistant Commissioner for Patents.'', and ''Assistant Commissioner for Trademarks.''.

(5) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended by striking ''(d) Patent and Trademark Office;'' and redesignating subsections (a) through (g) as paragraphs (1) through (6), respectively.

(6) The Act of April 12, 1892 (27 Stat. 395; 20 U.S.C. 91) is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(7) Sections 505(m) and 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m) and 360b(o)) are each amended by striking ''of the Department of Commerce''.

(8) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(9) Section 1744 of title 28, United States Code is amended—

(A) by striking ''Patent Office'' each place it appears and inserting ''Patent and Trademark Office''; and

(B) by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(10) Section 1745 of title 28, United States Code, is amended by striking ''United States Patent Office'' and inserting ''Patent and Trademark Office''.

(11) Section 1928 of title 28, United States Code, is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(12) Section 160 of the Atomic Energy Act of 1954 (42 U.S.C. 2190) is amended—

(A) by striking ''United States Patent Office'' and inserting ''Patent and Trademark Office''; and

(B) by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(13) Section 305(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(c)) is amended by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(14) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking ''Commissioner of the Patent Office'' and inserting ''Commissioner of Patents and Trademarks''.

(15) Section 1111 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(16) Section 1114 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(17) Section 1123 of title 44, United States Code, is amended by striking ''the Patent Office.''.

(18) Sections 1337 and 1338 of title 44, United States Code, and the items relating to those sections in the table of contents for chapter 13 of such title, are repealed.

(19) Section 10(i) of the Trading With the Enemy Act (50 U.S.C. App. 10(i)) is amended by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(20) Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting ''the Patent and Trademark Office,'', after ''the Panama Canal Commission,''.

Subtitle E—Miscellaneous Provisions

SEC. 17501. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this title—

(1) to the head of such department or office is deemed to refer to the head of the department or office to which such function is transferred; or

(2) to such department or office is deemed to refer to the department or office to which such function is transferred.

SEC. 17502. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 17503. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, the United States Trade Representative, any officer or employee of any office transferred by this title, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this title, and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This title shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the date of the enactment of this Act before an office transferred by this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this title, shall abate by reason of the enactment of this title.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by

this title shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this title.

SEC. 17504. TRANSFER OF ASSETS.

Except as otherwise provided in this title, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this title shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 17505. DELEGATION AND ASSIGNMENT.

Except as otherwise expressly prohibited by law or otherwise provided in this title, an official to whom functions are transferred under this title (including the head of any office to which functions are transferred under this title) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

SEC. 17506. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director shall make any determination of the functions that are transferred under this title.

(b) INCIDENTAL TRANSFERS.—The Director, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 17507. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this title, the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 17508. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities.

SEC. 17509. DEFINITIONS.

For purposes of this title—

(1) the term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term 'office' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

TITLE XVIII—WELFARE REFORM

SEC. 18001. ENACTMENT OF THE PERSONAL RESPONSIBILITY ACT OF 1995.

H.R. 4, as passed by the House of Representatives on March 24, 1995, is hereby enacted with the following amendments:

(1) In section 101, insert

''(a) IN GENERAL.—'' before ''Title IV of the Social Security Act''.

(2) At the end of section 101, add the following:

(b) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 402(a) of the Social Security Act (as in effect pursuant to the amendment made by subsection (a) of this section) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant limitations under section 403(a)(1)(A)(i) of such Act (as so in effect) for fiscal year 1996 (including the formula for computing the amount of the grant).

(3) Strike section 403(a)(1)(A) of the Social Security Act, as proposed to be added by section 101, and insert the following:

''(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary—

''(i) for fiscal year 1996, a grant in an amount equal to—

''(I) the State family assistance grant for fiscal year 1996; minus

''(II) the total amount of obligations to the State under part A of this title (as in effect before the effective date of this part) for fiscal year 1996, other than with respect to amounts expended for child care pursuant to subsection (g) or (i) of section 402 of this title (as so in effect); and

''(ii) for each of fiscal years 1997, 1998, 1999, and 2000, a grant in an amount equal to the State family assistance grant for the fiscal year.

(4) In section 201, insert

''(a) IN GENERAL.—'' before ''Part B of title IV of the Social Security Act''.

(5) At the end of section 201, add the following:

(b) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 422(a) of the Social Security Act (as in effect pursuant to the amendment made by subsection (a) of this section) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant limitations under section 423(a)(1)(A) of such Act (as so in effect) for fiscal year 1996 (including the formula for computing the amount of the grant).

(6) Strike section 423(a)(1) of the Social Security Act, as proposed to be added by section 201, and insert the following:

''(1) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary—

''(A) for fiscal year 1996, a grant in an amount equal to—

''(i) the State share of the child protection amount for fiscal year 1996; minus

''(ii) the total amount of obligations to the State under parts B and E of this title (as in effect before the effective date of this part) for fiscal year 1996; and

''(B) for each subsequent fiscal year specified in subsection (b)(1), a grant in an amount equal to the State share of the child protection amount for the fiscal year.

(7) Strike section 301(b) and insert the following:

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858B) is amended to read as follows:

''SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subchapter $1,804,000,000 for fiscal year 1996 and $2,093,000,000 for each of the fiscal years 1997, 1998, 1999, 2000, 2001, and 2002.''.

(8) In the matter preceding paragraph (1) of section 3 of the Child Nutrition Act of 1966, as proposed to be amended by section 321, strike ''The Secretary'' and insert ''(a) IN GENERAL.—The Secretary''.

(9) At the end of section 3 of the Child Nutrition Act of 1966, as proposed to be amended by section 321, add the following:

''(b) ADDITIONAL REQUIREMENTS.—

''(1) RESTRICTION ON ALLOTMENTS.—

''(A) COMPUTATION.—The Secretary shall provide for the computation of State obligation allotments in accordance with this section for each of the fiscal years 1996 through 2000.

''(B) LIMITATION ON OBLIGATIONS.—The Secretary shall not enter into obligations with any State under this Act for a fiscal year in excess of the obligation allotment for that State for the fiscal year, as determined under subsection (a). The sum of such obligation allotments for all States in any fiscal year shall not exceed the amount appropriated to carry out this Act for that fiscal year.

''(2) AGREEMENT.—The submission of an application by a State under section 4 is deemed to constitute the State's acceptance of the obligation allotment limitations under this section (including the formula for computing the amount of such obligation allotment).

(10) In the matter preceding paragraph (1) of section 3 of the National School Lunch Act, as proposed to be amended by section 341, strike ''The Secretary'' and insert ''(a) IN GENERAL.—The Secretary''.

(11) At the end of section 3 of the National School Lunch Act, as proposed to be amended by section 341, add the following:

''(b) ADDITIONAL REQUIREMENTS.—

''(1) RESTRICTION ON ALLOTMENTS.—

''(A) COMPUTATION.—The Secretary shall provide for the computation of State obligation allotments in accordance with this section for each of the fiscal years 1996 through 2000.

''(B) LIMITATION ON OBLIGATIONS.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary shall not enter into obligations with any State under this Act for a fiscal year in excess of the obligation allotment for that State for the fiscal year, as determined under subsection (a). The sum of such obligation allotments for all States in any fiscal year shall not exceed the school-based nutrition amount for that fiscal year.

''(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS IN FISCAL YEAR 1996.—

''(I) IN GENERAL.—The amount of the obligation allotment otherwise provided under this section for fiscal year 1996 for a State under this Act (as in effect on and after the date of the enactment of the Personal Responsibility Act of 1995) shall be reduced by the amount of the obligations described in subclause (II) that are entered into under this Act or under the Child Nutrition Act of 1966 on or after October 1, 1995, but prior to the date of the enactment of the Personal Responsibility Act of 1995.

''(II) AMOUNT OF OBLIGATIONS DESCRIBED.—(aa) Except as provided in division (bb), the amount of the obligations described in this subclause are 100 percent of the amount of the obligations entered into under this Act and under the Child Nutrition Act of 1966 (except obligations entered into under section 17 of such Act).

''(bb) For purposes of obligations entered into under the summer food service program for children under section 13 of this Act, the child and adult care food program under section 17 of this Act, and the special milk program under section 3 of the Child Nutrition

Act of 1966, the amount of the obligations described in this subclause are 12.5 percent of the amount the obligations entered into under each such program.

''(2) AGREEMENT.—The submission of an application by a State under section 4 is deemed to constitute the State's acceptance of the obligation allotment limitations under this section (including the formula for computing the amount of such obligation allotment).

''(3) TERMINATION OF PROGRAMS; LIMITATION ON NEW OBLIGATION AUTHORITY.—

''(A) ELIMINATION OF INDIVIDUAL ENTITLEMENT.—Effective on the date of the enactment of the Personal Responsibility Act of 1995—

''(i) except as provided in subparagraph (B), the Federal Government has no obligation to provide payment with respect to items and services provided under this Act (as in effect on and after the date of the enactment of the Personal Responsibility Act of 1995); and

''(ii) this Act (as in effect on and after the date of the enactment of the Personal Responsibility Act of 1995) shall not be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person at the time of provision or receipt of services.

''(B) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of this Act, the Secretary is authorized to enter into obligations with any State under this Act for expenses incurred after the date of the enactment of the Personal Responsibility Act and during fiscal year 1996, but not in excess of the obligation allotment for that State for fiscal year 1996, as determined under subsection (a).

TITLE XIX—CONTRACT WITH AMERICA-TAX RELIEF

SEC. 19001. ENACTMENT OF CONTRACT WITH AMERICA TAX RELIEF ACT OF 1995.

(a) IN GENERAL.—Title VI of H.R. 1215 of the 104th Congress, as passed by the House of Representatives, is hereby enacted with the following modifications to such title:

(1) Strike subtitle E (relating to social security earnings test) and redesignate subtitles F and G as subtitles E and F, respectively.

(2) Strike subsections (c)(2) and (d)(2) of section 6201.

(3) Strike the amendment contained in paragraph (2) of section 6301(d) and insert the following: ''Subsection (h) of section 1 is amended by adding at the end the following new sentence: 'For purposes of this subsection, taxable income shall be computed without regard to the deduction allowed by section 1202.' ''

(4) Strike section 6321 (relating to depreciation adjustment for certain property placed in service after December 31, 1994).

(5) Strike part III of subtitle C (relating to alternative minimum tax relief).

(6) Strike subtitle F (as redesignated by paragraph (1)) and insert the following:

''Subtitle F—Tax Reduction Contingent on Deficit Reduction

''SEC. 6701. TAX REDUCTION CONTINGENT ON DEFICIT REDUCTION.

''This title, which is contained within the Act that—

''(1) carries out the concurrent resolution on the budget for fiscal year 1996 that provides that the budget of the United States will be in balance by fiscal year 2002; and

''(2) achieves a level of deficit reduction pursuant to the reconciliation instructions of that concurrent resolution that will result in a budget of the United States that will be in balance by fiscal year 2002; and

''(B) is certified pursuant to the requirements set forth in section 210 of that concurrent resolution,

shall take effect as so provided by its effective date provisions.

''SEC. 6702. MONITORING.

''The Committees on the Budget of the House of Representatives and the Senate shall each monitor progress on achieving a balanced budget consistent with the most recently agreed to concurrent resolution on the budget for fiscal year 1996 or any subsequent fiscal year (and the reconciliation Act for that resolution) or the most recently agreed to concurrent resolution on the budget that would achieve a balanced budget by fiscal year 2002 (and the reconciliation Act for that resolution). After consultation with the Director of the Congressional Budget Office, each such committee shall submit a report of its findings to its House and the President on or before December 15, 1995, and annually thereafter. Each such report shall contain the following:

''(1) Estimates of the deficit levels (based on legislation enacted through the date of the report) for each fiscal year through fiscal year 2002.

''(2) An analysis of the variance (if any) between those estimated deficit levels and the levels set forth in the concurrent resolution on the budget for fiscal year 1996 or the most recently agreed to concurrent resolution on the budget that would achieve a balanced budget by fiscal year 2002.

''(3) Policy options to achieve the additional levels of deficit reduction necessary to balance the budget of the United States by fiscal year 2002.

''SEC. 6703. CONGRESSIONAL ACTION.

''Each House of Congress shall incorporate the policy options included in the report of its Committee on the Budget under section 6702(a)(3) (or other policy options) in developing a concurrent resolution on the budget for any fiscal year that achieves the additional levels of deficit reduction necessary to balance the budget of the United States by fiscal year 2002.

''SEC. 6704. PRESIDENTIAL ACTION.

''If the President submits a budget under section 1105(a) of title 31, United States Code, that does not provide for a balanced budget for the United States by fiscal year 2002, then the President shall include with that submission a complete budget that balances the budget by that fiscal year.''

(7) Conform the table of contents accordingly.

(b) TECHNICAL CORRECTION.—Effective with respect to taxable years ending after December 31, 1994, paragraph (1) of section 1201(b) of the Internal Revenue Code of 1986, as added by such title VI, is amended to read as follows:

''(1) IN GENERAL.—In the case of any taxable year ending after December 31, 1994, and beginning before January 1, 1996, in applying subsection (a), net capital gain for such taxable year shall not exceed such net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1994.''

SEC. 19002. COMPLIANCE WITH CONCURRENT RESOLUTION ON THE BUDGET.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, the taxpayer's net modified chapter 1 liability for any taxable year shall be such liability determined without regard to this section—

(1) increased by 27 percent of the excess (if any) of—

(A) the amount which would be the taxpayer's net modified chapter 1 liability for such year if such liability were determined without regard to the amendments made by subtitles A, B, C, and D of title VI of H.R. 1215 of the 104th Congress, as passed by the House of Representatives, over

(B) the taxpayer's net modified chapter 1 liability for such year determined without regard to this section, or

(2) reduced by 27 percent of the excess (if any) of the amount described in paragraph (1)(B) over the liability described in paragraph (1)(A).

(b) NET MODIFIED CHAPTER 1 LIABILITY.—For purposes of subsection (a), the term ''net modified chapter 1 liability'' means the liability for tax under chapter 1 of the Internal Revenue Code of 1986 determined—

(1) without regard to sections 1201 and 1202 of such Code, as amended by such title VI,

(2) without regard to the amendments made by sections 6103 and 6104 of such title VI,

(3) after the application of any credit against such tax other than the credits under sections 31, 33, and 34 of such Code, and

(4) before crediting any payment of estimated tax for the taxable year.

(c) CAPITAL GAINS.—

(1) CAPITAL GAINS DEDUCTION FOR TAXPAYERS OTHER THAN CORPORATIONS.—For purposes of applying section 1202 of the Internal Revenue Code of 1986, as added by such title VI—

(A) in the case of taxable years ending before January 1, 1996, ''42.5 percent'' shall be substituted for ''50 percent'' in subsection (a) thereof, and

(B) in the case of taxable years ending after December 31, 1995, ''34.5 percent'' shall be substituted for ''50 percent'' in subsection (a) thereof.

(2) ALTERNATIVE CAPITAL GAINS TAX FOR CORPORATIONS.—

(A) For purposes of applying section 1201 of such Code, as amended by such title VI—

(i) in the case of taxable years ending before January 1, 1996, ''26.5 percent'' shall be substituted for ''25 percent'' in subsection (a)(2) thereof, and

(ii) in the case of taxable years ending after December 31, 1995, ''31.9 percent'' shall be substituted for ''25 percent'' in subsection (a)(2) thereof.

(B) For purposes of applying section 852(b)(3)(D)(iii) of such Code, as amended by such title VI—

(i) in the case of taxable years ending before January 1, 1996, ''73.5 percent'' shall be substituted for ''75 percent'' in subsection (a)(2) thereof, and

(ii) in the case of taxable years ending after December 31, 1995, ''68.1 percent'' shall be substituted for ''75 percent'' in subsection (a)(2) thereof.

(3) INDEXING.—For purposes of applying section 1022 of such Code, as added by such title VI, only 69 percent of the applicable inflation adjustment under subsection (c)(2) of such section 1022 shall be taken into account.

(4) CONFORMING CHANGES.—Proper adjustments shall be made to the percentages and fractions in the following provisions to reflect the percentages in paragraphs (1) and (2):

(A) Sections 170(c), 1445(e), and 7518(g)(6)(A) of such Code.

(B) Section 607(h)(6)(A) of the Merchant Marine Act, 1936.

(d) AMERICAN DREAM SAVINGS ACCOUNTS.—For purposes of applying section 408A of such Code, as added by such title VI—

(1) only 69 percent of the income on the assets held in an American Dream Savings Account (which would otherwise be includible in gross income) shall be excludible from gross income,

(2) only 69 percent of any distribution attributable to amounts not previously included in gross income shall be entitled to the treatment described in subsection (d)(1) of such section 408A, and

(3) only 69 percent of any payment or distribution referred to in subsection (d)(3)(B) of such section 408A shall be entitled to the treatment described in such subsection.

(e) SPOUSAL INDIVIDUAL RETIREMENT ACCOUNTS.—For purposes of applying sections 219 and 408 of such Code—

(1) only 69 percent of the contributions to an individual retirement plan which are allowable as a deduction solely by reason of the amendments made by section 6104 of such title VI shall be allowed as a deduction, and

(2) only 69 percent of the income on the assets held in an individual retirement plan which are attributable to contributions permitted solely by reason of the amendments made by section 6104 of such title VI (which would otherwise be includible in gross income) shall be excludible from gross income.

(f) ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—In the case of taxable years beginning after December 31, 1994—

(A) in the case of a taxpayer other than a corporation, the tax imposed by section 55 of such Code shall be determined without regard to paragraph (1) of section 56(a) of such Code, and

(B) in the case of a corporation, the tentative minimum tax under section 55 of such Code shall be zero.

(2) DELAY IN BENEFIT OF REPEAL FOR TAXABLE YEARS 1995 AND 1996.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any taxable year beginning before January 1, 1997, but there shall be allowed as a credit against the tax imposed by subtitle A of such Code for each taxable year referred to in subparagraph (C) an amount equal to the credit determined under subparagraph (B).

(B) AMOUNT OF CREDIT.—The credit determined under this subparagraph for any taxable year to which this paragraph applies is an amount equal to ⅓ of the excess (if any) of—

(i) the aggregate tax paid under section 55 of such Code for taxable years beginning after December 31, 1994, and before January 1, 1997, over

(ii) the amount of tax which would have been imposed by such section 55 for such taxable years had paragraph (1) applied to such taxable years.

(C) YEARS CREDIT ALLOWED.—The taxable years referred to in this subparagraph are the first 3 taxable years of the taxpayer beginning after December 31, 1996.

(D) COORDINATION WITH OTHER PROVISIONS.—For purposes of the Internal Revenue Code of 1986, the credit allowed under paragraph (1) shall be treated as a credit allowed under subpart C of part IV of subchapter A of chapter 1 of such Code and as referred to in paragraph (2) of 1324(b) of title 31, United States Code, immediately before the period at the end thereof.

(g) COMPARABLE TREATMENT FOR ESTATE AND GIFT TAX CHANGES.—A rule similar to the rule of subsection (a) shall apply to any reduction in liability for tax under subtitle B of such Code by reason of the amendments made by section 6351 of such title VI.

TITLE XX—BUDGET ENFORCEMENT

SEC. 20001. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Seven-Year Balanced Budget Enforcement Act of 1995''.

(b) PURPOSE.—This title extends and reduces the discretionary spending limits and extends the pay-as-you-go requirements.

SEC. 20002. DISCRETIONARY SPENDING LIMITS.

(a) LIMITS.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (A), (B), (C), (D), and (F), by redesignating subparagraph (E) as subparagraph (A) and by striking ''and'' at the end of that subparagraph, and by inserting after subparagraph (A) the following new subparagraphs:

''(B) with respect to fiscal year 1996, for the discretionary category: $485,074,000,000 in new budget authority and $531,768,000,000 in outlays;

''(C) with respect to fiscal year 1997, for the discretionary category: $481,423,000,000 in new budget authority and $519,288,000,000 in outlays;

''(D) with respect to fiscal year 1998, for the discretionary category: $489,233,000,000 in new budget authority and $511,173,000,000 in outlays;

''(E) with respect to fiscal year 1999, for the discretionary category: $480,420,000,000 in new budget authority and $508,695,000,000 in outlays;

''(F) with respect to fiscal year 2000, for the discretionary category: $487,347,000,000 in new budget authority and $512,202,000,000 in outlays;

''(G) with respect to fiscal year 2001, for the discretionary category: $494,307,000,000 in new budget authority and $514,109,000,000 in outlays; and

''(H) with respect to fiscal year 2002, for the discretionary category: $496,188,000,000 in new budget authority and $512,426,000,000 in outlays;''.

(b) COMMITTEE ALLOCATIONS AND ENFORCEMENT.—Section 602 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (c), by striking ''1995'' and inserting ''2002'' and by striking the last sentence; and

(2) in subsection (d), by striking ''1992 TO 1995'' in the side heading and inserting ''1996 TO 2002'' and by striking ''1992 through 1995'' and inserting ''1996 through 2002''.

(c) TERM OF BUDGET RESOLUTIONS.—Section 606 of the Congressional Budget Act of 1974 is amended—

(1) in its section heading by striking ''**5-YEAR**'' and inserting ''**TERM OF**'';

(2) in the sideheading of subsection (a), by striking ''5-YEAR'' and inserting ''TERM OF'';

(3) in subsection (a), by striking ''1992, 1993, 1994, or 1995'' and inserting ''1996 or any fiscal year thereafter through 2002'' and by inserting ''at least'' before ''each''; and

(4) in subsection (d)(1), by striking ''1992, 1993, 1994, and 1995'' and inserting ''1996 or any fiscal year thereafter through 2002'', and by striking ''(i) and (ii)''.

(d) EFFECTIVE DATE.—Section 607 of the Congressional Budget Act of 1974 is amended by striking ''1991 to 1998'' and inserting ''1996 to 2002''.

(e) SEQUESTRATION REGARDING VIOLENT CRIME REDUCTION TRUST FUND.—(1) Section 251A(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (B), (C), and (D) and its last sentence and inserting the following:

''(B) For fiscal year 1996, $2,227,000,000.

''(C) For fiscal year 1997, $3,846,000,000.

''(D) For fiscal year 1998, $4,901,000,000.

''(E) For fiscal year 1999, $5,639,000,000.

''(F) For fiscal year 2000, $6,225,000,000.''.

(2) Section 310002 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14212) is repealed.

(f) CONFORMING AMENDMENT.—The item relating to section 606 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''5-year'' and inserting ''Term of''.

SEC. 20003. GENERAL STATEMENT AND DEFINITIONS.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first two sentences and inserting the following: ''This part provides for the enforcement of deficit reduction by reducing and extending the discretionary spending limits though fiscal year 2002 and permanently extending pay-as-you-go requirements.''.

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

''(4) The term 'category' means:

''(A) For fiscal years 1996 through 2000, all discretionary appropriations except those subject to section 251A; and

''(B) For fiscal year 2001 and any subsequent fiscal year, all discretionary appropriations.'';

(2) by striking paragraph (6) and inserting the following:

''(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.'';

(3) in paragraph (9), by striking ''1992'' and inserting ''1996''; and

(4) in paragraph (14), by striking ''through fiscal year 1995''.

SEC. 20004. ENFORCING DISCRETIONARY SPENDING LIMITS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking ''1991–1998'' and inserting ''1996–2002'';

(2) in the first sentence of subsection (b)(1), by striking ''1992, 1993, 1994, 1995, 1996, 1997 or 1998'' and inserting ''1997 or any fiscal year thereafter through 2002'' and by striking ''through 1998'' and inserting ''through 2002'';

(3) in subsection (b)(1), by striking ''the following:'' and all that follows through ''The adjustments'' and inserting ''the following: the adjustments'' and by striking subparagraphs (B) and (C);

(4) in subsection (b)(2), by striking ''1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998'' and inserting ''1996 or any fiscal year thereafter through 2002'' and by striking ''through 1998'' and inserting ''through 2002'';

(5) in subsection (b)(2)(E), by striking clauses (i), (ii), and (iii) and by striking ''(iv) if, for fiscal years 1994, 1995, 1996, 1997, and 1998'' and inserting ''If, for fiscal years 1996 through 2002''; and

(6) in subsection (b)(2)(F), by striking everything after ''the adjustment in outlays'' and inserting ''for a category for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1996 or any fiscal year thereafter through 2002.''.

SEC. 20005. ENFORCING PAY-AS-YOU-GO.

(a) EXTENSION.—(1) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in the side heading of subsection (a), by striking ''FISCAL YEARS 1992–1998''; and

(B) in subsection (e), by striking '', for any fiscal year from 1991 through 1998,'' and by striking ''through 1995''.

(b) ROLLING PAY-AS-YOU-GO SCORECARD.—Section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''each fiscal year through fiscal year 1998'' each place it appears and inserting ''the current year (if applicable), the budget year, and each of the first 4 outyears''.

SEC. 20006. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (d)(2), by striking ''1998'' and inserting ''2002''; and

(2)(A) in subsection (g)(2)(A), by striking ''1998'' and inserting ''2002''; and

(B) in subsection (g)(3), by striking ''in each outyear through 1998'' and inserting ''in each of the 4 ensuing outyears''.

SEC. 20007. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled ''Modification of Presidential Order'', is repealed.

SEC. 20008. SPECIAL RULE ON INTERRELATIONSHIP BETWEEN CHANGES IN DISCRETIONARY SPENDING LIMITS AND PAY-AS-YOU-GO REQUIREMENTS.

(a)(1) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subsection:

''(f) SPECIAL RULE ON INTERRELATIONSHIP BETWEEN SECTIONS 251, 251A, and 252.—Whenever legislation is enacted during the 104th Congress that decreases the discretionary spending limits for budget authority and outlays for a fiscal year under section 601(a)(2) of the Congressional Budget Act of 1974 or in section 251A(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, or both, then, for purposes of subsection (b), an amount equal to that decrease in the discretionary spending limit for outlays shall be treated as direct spending legislation decreasing the deficit for that fiscal year.''.

(2) Section 310(a) of the Congressional Budget Act of 1974 is amended by striking ''or'' at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5) and by striking ''and (3)'' in such redesignated paragraph (5) and inserting ''(3), and (4)'', and by inserting after paragraph (3) the following new paragraph:

''(4) carry out section 252(f) of the Balanced Budget and Emergency Deficit Control Act of 1985; or''.

(b) For purposes of section 252(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by subsection (a)(1))—

(1) reductions in the discretionary spending limit for outlays under section 601(a)(2) of the Congressional Budget Act of 1974 for each of fiscal years 1999 through 2002 under section 20002 shall be measured as reductions from the discretionary spending limit for outlays for fiscal year 1998 as in effect immediately before the enactment of this Act; and

(2) reductions in the discretionary spending limit for outlays under section 251A(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 for each of fiscal years 1996 through 2000 under section 20002 shall be measured as reductions in outlays for that fiscal year under section 251A(b) as in effect immediately before the enactment of this Act.

SEC. 20009. MEDICARE SAVINGS CANNOT BE USED TO PAY FOR TAX CUTS.

Any net savings in direct spending and receipts in the Medicare program for any fiscal year resulting from the enactment of this Act or H.R. 2425 (as applicable) shall not be counted for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 20010. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking ''Part C of this title, section'' and inserting ''Sections 251, 253, 258B, and''; and

(2) by striking ''1995'' and inserting ''2002''.

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note) is repealed.

SEC. 20011. APPLICATION OF SECTION 251 ADJUSTMENTS.

Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subparagraph:

''(H) SPECIAL ALLOWANCE FOR WELFARE REFORM.—If, for any fiscal year, appropriations are enacted for accounts specified in clauses (i) and (ii), the adjustment shall be the sum of:

''(i) the excess of the appropriation for the fiscal year for the Child Care and Development Block Grant over $1,082,000,000, but not to exceed $722,000,000 in fiscal year 1996 or $1,011,000,000 in fiscal year 1997 through 2002; and

''(ii) the excess of the appropriation for the fiscal year for the Family Nutrition Block Grant Program over $3,470,000,000, but not to exceed $692,000,000 in fiscal year 1996, $1,307,000,000 in fiscal year 1997, $1,466,000,000 in fiscal year 1998, $1,650,000,000 in fiscal year 1999, $1,838,000,000 in fiscal year 2000, $2,075,000,000 in fiscal year 2001, or $2,324,000,000 in fiscal year 2002;

and the outlays flowing in all years from such excess appropriations (as reduced pursuant to the limitations in clauses (i) and (ii).''.

SEC. 20012. SPECIAL RULES APPLICABLE TO DEPARTMENT OF DEFENSE SEQUESTRATION.

Section 255 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subsection (h) (relating to optional exemption of military personnel) and adding at the end the following new subsection:

''(j) OPTIONAL EXEMPTION FOR MILITARY PERSONNEL.—

''(1) AUTHORITY FOR EXEMPTION.—The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

''(B) The President may not use the authority provided by subparagraph (A) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

''(2) AUTHORITY FOR MILITARY TECHNICIANS AND MEDICAL PERSONNEL.—

''(A) Whenever the President exempts a military personnel account from sequestration under paragraph (1) and after all other sequestrations to Department of Defense account have been made, the Secretary of Defense may transfer amounts to any appropriation for operation and maintenance for the current fiscal year from amounts available under any other appropriation to the Department of Defense, but—

''(i) amounts so transferred shall be available only for the pay of military technicians, the pay of medical personnel, and other expenses of medical programs (including CHAMPUS); and

''(ii) the total amount transferred to any operations and maintenance appropriation shall not exceed the amount sequestered from such appropriation.

''(C) The authority to make transfers pursuant to subparagraph (A) is in addition to any authority of the Secretary of Defense to make transfers of appropriated funds under any other provision of law.

''(D) The Secretary of Defense may carry out a transfer of funds under subparagraph (A) only after notifying the Committees on Appropriations of the Senate and House of Representatives of the proposed transfer and a period of 20 calendar days in session has elapsed after such notice is received.''.

SEC. 20013. TREATMENT OF DIRECT STUDENT LOANS.

Section 504 of the Federal Credit Reform Act of 1990 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF DIRECT STUDENT LOANS.—The cost of a direct loan under the Federal direct student loan program shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows for the estimated life of the loan:

''(1) Loan disbursements.

''(2) Repayments of principal.

''(3) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

''(4) Direct expenses, including—

''(A) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants;

''(B) collection of delinquent loans; and

''(C) writeoff and closeout of loans.''.

SEC. 20014. DEFINITION OF PROGRAMS, PROJECTS, AND ACTIVITIES FOR DEPARTMENT OF DEFENSE APPROPRIATIONS.

For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, the term program, project, and activity for appropriations contained in any Department of Defense appropriation Act shall be defined as the most specific level of budget items identified in the most recent Department of Defense appropriation Act, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the committee of conference, the related classified annexes and reports, and the P–1 and R–1 budget justification documents as subsequently modified by congressional action: *Provided,* That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term ''program, project, and activity'' is defined as the appropriation accounts contained in the most recent Department of Defense appropriation Act: *Provided further,* That at the time the President submits his budget for any fiscal year, the Department of Defense shall transmit to the Committees on Appropriations and the Committees on Armed Services of the Senate and the House of Representatives a budget justification document to be known as the ''O–1'' which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for operation and maintenance in any budget request, or amended budget request, for that fiscal year.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the budget reconciliation bill before the House today. In my view, the Republican plan brings nightmares to the American dream of a better life for our children and sets the wrong priorities for the Nation.

While I support the goal of a balanced budget, I do not support the specific provisions of the Republican budget. The bill is shaped by the Republican priority of promoting the interests of the advantaged over the disadvantaged and average working Americans. In my view, a bipartisan budget bill, rather than this highly partisan and ideological budget, would better serve the American people.

TAX PRIORITIES

The Republican budget cuts taxes for corporations and the wealthiest Americans by $245 billion. More than half of these tax breaks go to those making over $100,000 a year, including major tax giveaways for wealthy investors and corporations.

Rather than asking corporations to be part of the shared sacrifice, the budget calls for expanded business tax subsidies of $37 billion. At the same time, the budget would raise taxes by $23 billion on 14 million low-wage workers and their families by cutting the Earned Income Tax Credit. Thus, low-income working families supporting more than 23 million children will have their taxes raised.

In fact, under this budget, taxes go up for families with incomes below $30,000. Taxes should not be raised on working families in order to finance tax breaks for businesses and those who are well-off.

MEDICARE

By far, the largest portion of the spending cuts in the Republican budget come from an assault on the two major Federal health care programs, Medicare and Medicaid, which together account for half of the spending cuts in the budget.

The Republican Medicare plan cuts $180 billion more than what is needed to make the trust fund solvent, inflicts excessive new premiums on beneficiaries, forces low-income seniors into managed care, repeals important Federal nursing home standards, decimates safety-net and teaching hospitals, and weakens fraud and abuse protections.

The Democratic Medicare alternative, which was defeated in the House, would have protected the financial stability of the Medicare Program, kept premiums affordable, provided seniors a choice of responsible plans, maintained safety-net and teaching hospitals, expanded preventive health benefits, and strengthened anti-fraud and abuse protection.

Medicaid cuts compound the problems caused by the Medicare cuts. Poor or near-poor elderly (those with monthly incomes below $625 per month) may no longer be assured that Medicaid will provide cost-sharing protection for their Medicare premiums, copayments and deductibles. These low-income elderly are doubly hurt because Medicare premiums and copayments will increase substantially at the same time that the Medicaid Program stops paying for them.

The bill also repeals Federal nursing home standards and directs States to adopt whatever standards they choose. With the magnitude of spending cuts, States will be unlikely to develop and enforce standards comparable to current Federal guidelines. The last thing we need to do is go back to the dark days of nursing home abuses that led to the current Federal standards.

MEDICAID

The Republican budget repeals the Medicaid Program which provides health security to 36 million low-income Americans. Half of the beneficiaries are children, 15 percent are people with disabilities, and 12 percent are elderly. Medicaid currently pays for more than half of all nursing home care.

The Medicaid Program is replaced by a block grant program where States would determine eligibility requirements and the types of benefits to be provided. Federal payments to States would be cut by $182 million or 30 percent from projected spending under current law.

Consumers Union estimates that the Medicaid provisions in this budget will result in 12 million Americans losing health insurance coverage. Because public hospitals and trauma centers are dependent on the Medicaid Program, all Americans would suffer a loss of essential health care when they need it most, while experiencing a serious, medical emergency.

The last Congress engaged in an intensive debate on how to provide universal health care coverage. Unfortunately, due to the complexity of the issue and the partisan nature of much of the opposition, no legislation was adopted.

Nonetheless, there was a shared goal by most Members of Congress to expand health care coverage. Now, the Republican majority is about to take the most dramatic step backwards for guaranteed health coverage in American history.

WELFARE

The welfare provisions in this budget bill would cut off benefits to 4.8 million children. These cuts are mean-spirited and cheat children out of good health, good nutrition, and a bright future.

This budget cuts food stamps for families with children by $28 billion, in my home State of California, the Food Stamp Program would be cut by $3.7 billion.

The Republican budget would cut foster care and adoption for vulnerable children in the United States by over $6 billion. Where is our commitment to help our poorest and most vulnerable children? The Republicans would have us balance our budget on their backs, which are not strong enough to carry that terrible weight.

HOUSING

The Republican budget would dramatically heighten the crisis in America's cities. A walk down the street of any American city today presents a graphic portrait of how we need to be increasing our commitment to providing affordable housing. Homelessness is on the rise and America's working families are the fastest growing portion of the homeless population.

And what impact will this Republican budget have? It will decrease the availability of affordable housing by decreasing the tools used by the private and non-profit sectors in the battle to end homelessness.

For example, the Republican budget sunsets the low-income housing tax credit. This credit has played a critical role in the production and rehabilitation of affordable housing across the country.

This year's appropriations bill passed by the House cuts housing programs by at least 26 percent overall and homeless assistance programs by 40 percent. In the absence of Federal funding to provide access to safe, decent, and affordable housing for all Americans, the tax credit is an essential tool for local communities and non-profit organization struggling to house our population.

But the Republican budget does not stop here. It essentially guts the Community Reinvestment Act, one of the most effective tools we currently have to promote investment in low-income communities. This program has increased self-sufficiency in low-income communities around the country and it has had tangible results. There are more small businesses, more jobs, and more housing in communities throughout America as a result of this program. This budget will have an adverse impact on the ability of American communities to build and to rebuild themselves.

STUDENT LOANS

A college education used to be a part of the American dream. In today's economy, it has become an absolute necessity. And not every young person has the means to achieve this. Nearly one-half of all the Nation's college students depend on tuition loans to help pay their way.

Yet provisions in this legislation would result in penalties to those who take advantage of these aid programs. Elimination or drastic reduction of the Direct Student Loan Program would have a devastating effect on a great number of schools. Direct loans are being praised by students and administrators for speed, efficiency and lack of bureaucracy. It is a program that is good for our students and good for the country.

The bill increases the cost of education for parents by increasing the variable interest rate on parent loans. An increase in student loan fees makes it virtually impossible for schools not to pass on the cost of their loan volume fees to the students.

The Republican majority is attempting to give tax cuts to corporations and the rich at the expense of our Nation's children and our Nation's future. These extreme cuts could completely undermine the stability of the student loan program.

PENSION ASSETS

The Republican budget allows corporations to siphon billions of dollars out of worker's pension funds. The Joint Committee on Taxation estimates companies would take up to $40 billion of workers' pension funds through this new corporate loophole.

Only last year, the administration proposed—and Congress on a bipartisan basis enacted—safeguards to tighten pension fund security in underfunded plans by preventing manipulation of the funding rules. The Republican budget undermines these important reforms by encouraging companies to deplete pension assets dramatically.

If companies remove pension assets, thereby jeopardizing the retirement years of American workers, the Pension Benefit Guaranty Corporation has to pay them. This huge gift to corporations would increase risk to American taxpayers.

We cannot afford another huge Government bailout. Taxpayers have already bailed out the Savings and Loan industry. Yet, the Republican budget would endanger American taxpayers and threaten the security of pensions for American workers in order to provide yet another tax break for big business.

THE ENVIRONMENT

The devastation to our Nation's public lands and natural resources in this bill is beyond understanding. Under the guise of balancing the budget, programs to protect the environment have been fleeced while great Government give-aways remain cloaked and untouched.

The Republicans can open up, sell, and privatize our resources, but they are unable to reach into the deep pockets that pad Federal subsidies to make the cuts that truly should be made. There are plenty of other alternatives available to achieve this balancing act. Mining

law, grazing law, and timber sales are all areas where fair cuts could have been made. But, instead, this budget yields to special interests and continues Government giveaways to those who should share in the sacrifice necessary to balance the budget.

How can we truly reconcile these costs to the American taxpayer that will not, but should be cut—the millions of dollars in subsidies and lost revenues from the private use of our public lands and resources?

This is a strange way to do business: Sell your assets at fire sale prices and then get below-market rates for the major assets you keep.

The American taxpayer owns our natural resources—they belong to us today and to our children tomorrow. But, the American taxpayer loses in this bill. We lose the investment we have made for scores of years to protect our resources, and we lose our investment in the future.

STATEMENT OF VALUES

Mr. Chairman, the Federal budget should be a statement of our national values. This budget does not meet the test of fairness demanded by the American people. It reaffirms the Republican Party as the party of wealth, power, and privilege. This bill raises taxes on average American families in order to provide tax breaks for corporations and the wealthiest Americans.

Whether its Medicare, Medicaid, welfare, student loans, pension assets, housing or the environment, the values expressed in this bill do not reflect the fairness of the American people. To adopt his budget would be to move this country in the wrong direction. I urge a vote against this budget.

Mrs. MALONEY. Mr. Chairman, when speaking about Medicare this week, the Speaker said, and I quote, ''Now, we don't get rid of it in round one because we don't think that's politically smart and we don't think that's the right way to go through a transition. But we believe it's going to wither on the vine because we think people are voluntarily going to leave it.''

How can you both be trying to save Medicare and talk about getting rid of it at the same time?

The answer is: you cannot.

The only true way to save Medicare is to vote against this destructive Republican budget bill.

In fact, between the slashes to both Medicare and Medicaid, $50 billion will be torn from New York State's economy over the next 7 years.

And $12 billion of that will come directly out of New York City hospitals.

These are the same hospitals that are responsible for caring for the citizens of America's largest city; that train a disproportionate number of our next generation of health care professionals; and that conduct cutting-edge research to save and improve our lives.

This plan will eliminate 140,000 jobs—everyone from doctors and nurses to janitors—that maintain the quality of health care and training at these institutions.

This degradation of our hospitals endangers the health care of every American.

However, our seniors and poor children will unfortunately be hurt the most.

More than a quarter of New York's children rely on Medicaid funding for their most basic health care needs. This means things like immunizations and regular checkups—care that no child in this country should be denied. Yet the Republican budget will deny that basic care to half-a-million children in New York. That is a disgrace.

This same budget will deny SSI payments to 65,000 disabled children in New York, children whose parents are already struggling to make ends meet.

Some parents may have to choose between poverty and institutionalizing their children.

Our seniors will see their premiums go up more than $400, forcing many to choose between basics like food and health care. After all our parents have done to build this country and give us opportunities, we owe them better than that.

Mr. Chairman, this budget is destructive to every New Yorker, and I urge my colleagues to vote against it.

Mr. KANJORSKI. Mr. Chairman, I want to express my strong opposition to the Republican reconciliation plan and do my part to help explain to the American people why the bill is bad for our country and our future, particularly in northeastern Pennsylvania. It is appropriate to discuss the future of our country in the context of this budget because the Republican majority has attempted to sell its plan as the fix for all that ails this great Nation. Nothing could be further from the truth, and in fact, this legislation will make our problems much worse.

There are so many things bad about this budget, it is hard to know where to start. Let me begin by stating what I believe is good. The only redeeming feature of this bill is that it presents a comprehensive plan to help reduce our Federal budget deficit. It finally puts on the table a detailed Republican budget plan. For all of those years of talk by Republicans about the need to balance the budget without actually putting forward a detailed, balanced budget plan, including the 12 years they were in power during the Reagan and Bush administrations, I must say: It is about time.

The hard truth, however, is that for average, hard-working Americans, children, and senior citizens, there is little to be happy about. Republicans say their plan will balance the budget, but it won't. This bill does not actually balance the budget because it continues to rely on the surplus of the Social Security trust fund. Without the trust fund, the Republican budget would not be balanced

Republicans claim the budget will benefit senior citizens, but the truth is this budget is certain to hurt them. They claim the budget will provide more economic opportunity in our country, but it actually does nothing to generate jobs and higher wages. Empty claims are made that the budget will somehow provide a more promising future for our children, but it cuts education, housing, and low-income tax credits for working families which make it possible for people to work their way out of poverty.

Who does the budget help? It helps wealthy individuals and large international corporations who beg the Congress for massive tax cuts and subsidies but who are increasingly investing more of their money, and sending jobs, out of the country. It helps corporations who want exemptions from important environmental laws. It helps companies who want to compensate taxpayers little or nothing for exploiting our limited natural resources. Truly, it is a special interest mishmash of gigantic proportion hidden behind a wall of rhetoric in support of a balanced-budget agenda.

It is an understatement to say there are many problems with the Republican budget. I would like to comment on at least a few of the more onerous aspects.

SENIOR CITIZENS

First, let address the effect on seniors in northeastern Pennsylvania and around the country. For your information, Mr. Chairman, my district has the 11th highest proportion of senior citizens of all congressional districts. About 20 percent of my district's population, or 120,000 citizens, depend on Medicare.

We held a separate vote on the Republican Medicare plan last week, but there is no hiding the fact that Medicare and Medicaid are being cut to pay for the giveaways in this budget bill. In fact, the single largest part of budget savings in this plan comes from the Medicare and Medicaid Programs—more than $450 billion over 7 years, the largest cuts in the history of these programs.

Republicans say that the cuts in Medicare are needed to preserve the Medicare trust fund. These words ring hollow from those who opposed the creation of Medicare and Medicaid. The truth is that according to the Medicare Trustees, cuts of just $89 billion, not $270 billion, are needed to preserve the trust fund. Clearly, Republicans are picking the pockets of our senior citizens to the tune of $181 billion, to pay for their tax cuts and other special interest giveaways. Beneficiaries and hospitals in my district could lose up to $1 billion in Medicare losses.

I cannot support such massive cuts in these programs. The best way to save money in Medicare and Medicaid is to reform our total health care system. Otherwise, the rising cost of providing care to seniors will be shifted to working families already struggling to pay for the cost of medical care, forcing many more to drop coverage. With more than 53,000 citizens in my district and 40 million Americans around the country currently without health insurance, that outcome is unacceptable.

I also cannot accept placing huge new financial burdens on seniors by doubling the part B Medicare premium. Many seniors can barely afford paying for food and rent. We cannot ask low-income seniors to pay more for the cost of medical care, when most already can barely pay the current cost. We also should not chip away at the quality of health care seniors receive by pushing them into managed care, forcing small hospitals to close, and reducing regulation on doctors and health insurance plans.

Equally as troubling are massive cuts in Federal spending for nursing home care under the Medicaid Program and the elimination of crucial Federal protections for nursing home residents. Medicaid pays for the care of more than 64 percent of Pennsylvania nursing home residents. Pennsylvania will be forced either to raise taxes to make up for lost Federal assistance, or lower standards and deny care to the elderly and disabled. Seniors and their families must have the security that they will not be bankrupt by the health care system as they face old age and debilitating illnesses.

WORKING FAMILIES

Working families will also suffer under this budget. In addition to the possibility that they may be forced to bear a greater burden of paying for the long-term care of their parents,

many will have their taxes raised immediately. The earned income tax credit [EITC], which rewards work over welfare, and which was strongly supported by Republican and Democratic administrations, is being cut back. In Pennsylvania, reductions in the credit mean a tax increase to over 455,000 taxpayers at an average rate of $137 per taxpayer.

In my district, the tax increase on almost 27,000 taxpayers receiving the EITC will total more $3.6 million next year, and $25 million over 7 years.

Another hit comes from $10 billion in cuts to Federal student loans. Interest rates charged to parents to take loans out on behalf of their children are increased, and students will have to begin to pay back loans sooner, regardless of the fact that it is taking longer and longer for graduates to find jobs.

CHILDREN

Pennsylvania is hit with one of the largest cuts in the Medicaid Program, 22 percent, a program which has children as its largest number of beneficiaries. More than 18 percent of Pennsylvania children rely on Medicaid for their basic health needs. Coverage may have to be eliminated for as many as 114,892 Pennsylvania children with these cuts.

Combining these cuts with budget cuts in appropriation bills levy a heavy toll on Pennsylvania children. Other budget cuts will, for example, deny important new Head Start education funding and cut nutrition assistance for 551,000 children just in my State of Pennsylvania. Cuts will deny child care to more than 17,000 children and reduce foster care and adoption assistance to our State by $390 million over 7 years. Child protection funds for abused and neglected children are cut by a full 21 percent by the year 2002.

TAX CUTS

Perhaps the most outrageous part of this budget is a $245 billion tax cut which benefits mostly the wealthiest Americans. At a time when the Republican majority in Congress is proposing to raise taxes on working families, cut health care for the elderly, cut education, and cut nutrition assistance and child care for children, this is no time to be providing a tax windfall to those who do not need tax relief.

The benefit of more than 52 percent of the tax cuts in the Republican plan will go to taxpayers earning more than $100,000 per year, only 1.7 percent of households in my district. Taxpayers earning more than $350,000 a year will get an average tax break of $18,925 per year. Astonishingly, taxpayers with incomes below $10,000 will get a tax increase of about 2 percent.

Some Republicans think that making almost $200,000 per year qualifies a taxpayer as lower-middle class; one member from North Carolina actually said so last week. In fact, he went on to claim that taxpayers making between $300,000 and $750,000 per year are middle class. I have news for him, there are precious few families in northeastern Pennsylvania that make that much; most earn only a small fraction of these amounts. This shows how out of touch Republicans are with the real world. At the very least, any tax cuts should be targeted to help truly middle-class, working Americans.

CORPORATE WELFARE

Large corporations, of course, are big winners under the Republican budget. Corporations would be allowed to more easily withdraw contributions made to employee pension funds. Some 22,000 pension plans, covering 11 million workers and 2 million retirees are at risk. This is nothing more than stealing from the pensions of working families. Companies will not even have to notify employees and retirees.

In the long run, the loss of pensions for workers will mean a lower standard of living for senior citizens and an even higher level of Federal spending on Medicare, Medicaid, and other programs if companies default on pension plans. Default could easily occur because present pension surpluses are based on inflated stock market prices. Government, and therefore taxpayers, will ultimately have to step in and make up for pension shortfalls resulting from corporate greed.

Corporations would also get relief from the repeal of the Federal alternative minimum tax, which currently makes sure that companies cannot take excessive deductions and credit to eliminate tax liability. At least 130 companies between 1981 and 1985 had years where they paid no Federal taxes. These companies included General Electric, Boeing, and Lockheed, some of the largest in our country. In eliminating the minimum tax, multibillion dollar companies can again use loopholes and accounting gimmicks to pay less in taxes than most working families.

Big oil companies would be allowed to drill for oil in environmentally-sensitive areas of Alaska, just 6 years after the worst oil spill disaster in our history in Valdez, AK. Grazing fees imposed in response to environmental degradation on public lands in the west will be reduced to the benefit of large, profitable cattle companies.

Foreign mining companies will continue to be permitted to reap billions of dollars off Federal lands, while paying taxpayers pennies. One South African firm is seeking to mine Jerritt Canyon in Nevada, a project with recoverable resources worth $1.1 billion, and the company will pay just $5,080. A Canadian firm will soon mine McCoy Cove in Nevada for just $1,000, even though the mine's recoverable resources are worth $1.4 billion.

ECONOMIC DEVELOPMENT

The Republican budget proposes to eliminate the Commerce Department, but in its place establish seven new bureaucracies. Somehow, Republicans think that this will save the Government money when independent studies of the proposal have concluded that it will actually cost more to take this action.

Worse, the budget decimates funding for important programs of the Economic Development Administration [EDA] of the Commerce Department which allocates some of the already very small amounts of economic development assistance this country spends each year. The EDA has helped my district tremendously in the last few years through grants to secure new jobs and industries that are economic development anchors in Nanticoke, Wilkes-Barre, and Hazleton. In May, the EDA provided an important grant for the expansion of Humboldt Industrial Park in the greater Hazleton area. The EDA is clearly very important to northeastern Pennsylvania and other regions struggling to create jobs and economic opportunity for their citizens.

WHAT MUST BE DONE

Mr. Chairman, I want to reiterate that this bill does not provide solutions to our Nation's problems. Few Americans understand that this budget does not even truly balance the budget—the primary goal of the bill. The only reason the Republican budget reaches a balance under budget scoring rules is that it borrows $115 billion from the Social Security trust fund. Even worse, it pushes the cost of much of the tax cuts off into the long-term future, worsening the budget after the year 2002.

This budget is a fraud and a disgrace. Americans should not have to rely on the President to stop these measures nor wait for Democrats to take control of the Congress to responsibly get our fiscal house in order. Yes, we must pass a budget. But we must pass a good budget, regardless of what party is in control. A good budget is balanced and fair, and this budget clearly fails in both of these respects.

Working together, I am confident that Republicans and Democrats can accomplish many great things in this Congress, including producing a budget plan that balances the federal budget. Working together with the Bush administration in 1990 the Democratic Congress averted disaster and put together a bipartisan deficit reduction bill. Because of our deficit reduction efforts both in 1990 and 1993, the deficit has fallen from $290 billion in 1992, to $165 billion this year. The deficit is at its lowest level as a percentage of the economy since 1979.

More must be done, and on this issue Republicans and Democrats agree. There is an alternative before us which shows that there is clearly room for compromise on many of the most difficult issues. I urge my colleagues therefore to reject the majority budget bill and work with the President and the Democratic minority to produce a good balanced budget.

Mr. LANTOS. Mr. Chairman, many of my colleagues have described the fundamental flaws of this disastrous bill—this bill makes huge cuts in Medicare, Medicaid, and other programs for low- and middle-income Americans in order to finance tax breaks for the wealthy. More than half of the $245 billion in Republican tax cuts will go to those who earn over $100,000 per year, and at the same time almost seven-eighths of middle-income families will actually pay more in taxes or will see no benefit at all from this disastrous plan.

The $270 billion cut in Medicare, which is included in this bill, is three times greater than the amount recommended by the Medicare trustees—and this provision will force American seniors to pay more, limit their choice of doctors, and lead to a reduction in health care quality. This legislation abolishes minimum quality standards for nursing homes. Another provision of this calamitous legislation allows corporations to take $40 billion out of worker pension funds and use them for any purpose those corporations choose.

Mr. Chairman, as I have just enumerated briefly, there are a whole host of fatal flaws in this ill-conceived piece of legislation. But in the interest of time, I would like to concentrate on a single problem in the bill. This one problem is only a single small example of the horrendous fundamental defects of this legislation. The problem I am talking about is the great pension fund raid of 1995.

Sometimes, Mr. Chairman, the Congress makes a decision which shows remarkable long-term foresight and wisdom. Sometimes, however, it makes a decision which shows awesome short-term irresponsibility. Today,

we are about to witness such short-term irresponsibility. The Republican majority—first on the House Ways and Means Committee and now in the full House of Representatives—is marching in lock-step to approve a provision which clearly qualifies as one of the most mind-boggling examples of shortsightedness I have seen since I have served in the Congress.

The Republican's self-imposed deadline to balance the Federal budget by the year 2002 has run into the brick wall of no new taxes and constituent support for continuing existing Federal programs. Now, the Republicans are desperately searching for the magic bullet that will balance the budget without cutting Government programs.

In this atmosphere, some Republicans think they have found such a magic bullet. They have proposed a change in pension reserves that will raise an estimated $9.5 billion in tax revenue. The proposal does indeed sound too good to be true.

Companies which maintain their own pension programs are required to fund the programs at 150 percent of current liabilities. The Republican proposal would allow them to fund their programs at only 125 percent of current liabilities. The excess in the pension funds could be withdrawn by the companies for any purpose, and taxes would be paid on those funds. The $9.5 billion in revenues are the estimated taxes that would be paid on those funds that would be withdrawn.

The shortsightedness of that proposal is incredible, particularly because there is a massive potential cost to the Federal Government. If the companies are unable to fund their own pensions, the American taxpayers are left holding the bag. An agency of the Federal Government—the Pension Benefit Guarantee Corporation [PBGC]—is the ultimate guarantor of all of these private pension programs. If a pension plan goes belly up, for whatever reason, the PBGC has the obligation to continue funding those pensions.

As the former chairman of the congressional Subcommittee on Employment and Housing, I held a series of hearings on the ability of the PBGC to handle potential defaults in private pension programs. The conclusion of my subcommittee hearings and the thorough review we undertook—as well as the review by independent Government auditors of these programs—is that the PBGC could face potentially serious unfunded liabilities if there are major pension program defaults. A modest increase in pension plan defaults will overwhelm the PGBC's resources, and the American taxpayer will be left holding a very large bag.

How better to turn solemn warnings into dire reality than to reduce the corporate funding requirements of those pension plans. The short-term gain of less than $10 billion over the next 7 years—which will make a minimal contribution to balancing the Federal budget—could result in pension defaults which could cost the American taxpayer in the long run many times the minimal amount gained in the short run.

This is typical of the Republican social and economic legislation that we have seen this year. The beneficiaries of this program are the corporate fat cats, who will reap a windfall because they will put away considerably less for future pension needs. The little people are the ones who will suffer. When the PBGC assumes the increased burden that will follow as more pension programs go into default, pension recipients will be cut. If the PGBC cannot meet its increased liabilities, the taxpayers—again working American men and women—will have to foot the bill.

Mr. Chairman, the corporate pension windfall provision of this legislation is in and of itself amply reason for rejecting this entire budget reconciliation package. But this is only a small example of the short-term irresponsibility and reckless policy that this single bill contains. I urge my colleagues to reject this bill.

Mr. Chairman, I ask consent to include in the RECORD a statement issued yesterday by Secretary of Labor Robert B. Reich, who is also the Chairman of the Board of the Pension Benefit Guaranty Corporation. Secretary Reich's statement clearly and concisely identifies the problems with this horrendous provision of the budget reconciliation bill.

STATEMENT OF SECRETARY OF LABOR ROBERT B. REICH

The legislation that Congress is considering this week is exactly the wrong thing to do. At a time when there is widespread agreement that we need to strengthen pensions and increase the savings rate, this legislation sends absolutely the wrong signal.

I strongly support Congressman Matsui's proposal to strip this pension grab out of the reconciliation bill that will be on the House floor tomorrow. And I support efforts to do the same thing in the Senate.

I called this a pension grab and that's what it is, pure and simple. It's an attempt to turn the clock back to the 1980s, when companies raided tens of billions of dollars from the private pension system and undermined confidence in the system. During those years, there were no restrictions on pension plans and we saw the result—billions of dollars were taken out of the pension system, and much of the money went to pay for corporate takeovers.

The practice continued until Congress wisely put a stop to it with excise taxes. Now, Congress is about to remove the safeguards which have strengthened the pension system.

And let's remember whose money will be taken—it will be the money earned by America's working people to pay for their retirement, money they will need to take care of themselves.

The fact is simple and bears repeating: a plan which is overfunded today can quickly become underfunded next week. Changes in asset values and interest rates can reduce funding levels. Companies in financial trouble will have an incentive to strip assets from pension plans.

As Congress considers this legislation, one fact should be kept in mind—last year, the pension insurance system was already running a deficit of $1.2 billion.

When this administration took office, we moved quickly to address the serious problems we found with underfunded pensions. And last year, Congress acted on a bipartisan basis to pass our Pension Protection Act. This legislation would undo the protections in that legislation. This proposal should be rejected.

As chairman of the board of the Pension Benefit Guaranty Corporation, I'm worried about the pensions of 41 million Americans. For that reason, I urge the House and Senate to halt this pension raid—and I commend the members here today for protecting America's working men and women.

Mr. TORRES. Mr. Chairman, the effects of this budget on our Nation's children are disastrous. These cuts create a system that hits our children around every corner: in the classroom, in the home, and on the street.

When our children go to school, they won't find help through unique programs. And if your child has special needs or is disadvantaged, this budget says ''sorry, we have nothing for you.''

The tragedy does not end with education. Even the most basic health care and nutritional assistance will be denied to millions of children.

And why?

Because they had the misfortune of being born into poverty and this bill refuses to recognize their innocence.

My home State of California stands to lose more than any State in the Nation. Roughly a quarter of a million disadvantaged students will be denied special help with reading, writing, and math.

And let's not forget the 26 percent of California children who will go without basic health care with the reduction of Medicaid.

What kind of a foundation will our Nation's children have to grow from when this Congress refuses to give them stable ground?

Mr. Chairman, the proponents of this budget can sugar-coat the effects of these cuts and swindle the American public; the reality is, this budget puts a noose around the neck of every child in America. I, for one, will not keep it a secret.

Mr. DE LA GARZA. Mr. Chairman, there are many reasons to oppose the Gingrich reconciliation legislation. The most tragic aspects of the bill are those which are targeted to compromise the well-being of our Nation's children. The bill's cuts in Medicaid, Supplemental Security Income, education, housing, and nutrition assistance programs are terribly misguided. History has shown us that the short-term savings attained by undermining the health and well-being of our children will come back to haunt us in the future through lost productivity and increased health care costs.

The following administration analysis details the impact the Republicans' human services program cuts will have on children in the State of Texas.

IMPACT OF REPUBLICAN BUDGET CUTS ON CHILDREN IN TEXAS

IMPACT OF HEALTH CARE CUTS ON CHILDREN IN TEXAS

Eliminates Medicaid coverage for as many as 206,641 children in Texas and 4.4 million children nationwide in 2002. Currently, 20% of children in Texas rely on Medicaid for their basic health needs. Medicaid pays for immunizations, regular check-ups, and intensive care in case of emergencies for about 1,407,000 children in Texas.

The Republican budget cuts federal Medicaid funding to Texas by $7 billion over seven years and by 20% in 2002 alone.

Even if Texas could absorb half of the cuts by reducing services and provider payments, it would still have to eliminate coverage for 360,097 people, including 206,641 children in 2002.

Among the children in Texas who could be denied coverage, many are disabled. Medicaid often makes the difference between whether or not a disabled child lives at home with their parents. Medicaid provides valuable services for many disabled children, often making the difference that allows them to live at home with their parents. Medicaid provides for items such as wheelchairs, communication devices, therapy at home, respite care and home modifications. Without these services, parents may be forced to give up their jobs of seek institutional placement for children.

Jeopardizes immunizations for children in Texas. The Republican budget repeals the Vaccines for Children program, putting at risk at least $1.5 billion over seven years that would otherwise provide vaccinations for children in Texas and across the nation.

Cuts Dallas infant mortality project by 52% in 1996. This Healthy Start project provides vital prenatal and health care services to women in the Dallas community of childbearing age. Nationwide, the House cut would deny 1 million women services, affecting the births of 74,000 infants each year.

IMPACT OF CUTS ON CHILDREN WITH DISABILITIES IN TEXAS

Denies as many as 44,070 disabled children in Texas SSI cash benefits in 2002. The House welfare bill eliminates federal Supplemental Security Income benefits for as many as 54% of the disabled children in Texas expected to receive SSI cash benefits in 2002 under current law. Federal SSI cash benefits for children with disabilities in Texas will be cut by $1.2 billion over seven years, affecting as many as 755,000 disabled children nationwide in 2002.

TAX INCREASE ON WORKING FAMILIES WITH CHILDREN IN TEXAS

2.5 million children in Texas live in working families that will have their taxes raised by an average of $430 in 2002 under the Republican budget. The Senate has passed a $43 billion tax increase on working families by reducing the Earned Income Tax Credit.

Families with two or more children in Texas will face an average tax increase of $500.

IMPACT OF EDUCATION CUTS ON CHILDREN IN TEXAS

Denies Head Start to 12,512 children in Texas and 180,000 children nationwide in 2002, compared with 1995.

Denies 100,100 Texas children basic and advanced skills in 1996. The Republican budget cuts Title I by $1.1 billion—a 17% cut in 1996—denying Title I funding for 1.1 million students in the poorest communities nationwide, including 100,100 children in Texas. Title I funds in Texas will be cut by $97.8 million in 1996.

Cuts Safe and Drug Free Schools, which 1,043 out of 1,053 school districts in Texas use to keep crime, violence, and drugs away from 2.0 million children, their schools, and their communities.

Eliminates Goals 2000, denying improved teaching and learning for as many as 413,000 school children in Texas in 1996. By 2002, 949,800 children in Texas would be denied improved education, compared with the President's balanced budget.

Eliminates the AmeriCorps National Service program, denying 3,171 young people in Texas the opportunity to serve their communities in 1996.

Eliminates summer jobs for 42,491 youths in Texas in 1996 and 297,437 youths over seven years. The Republican budget eliminates the summer youth employment program which provides job experience and skills to 600,000 youths each summer.

IMPACT OF NUTRITION CUTS ON CHILDREN IN TEXAS

Cuts nutrition assistance for 1.4 million children in Texas in 2002. The House Republican budget cuts food stamp benefits for families with children in Texas by $3.1 billion over seven years and by 25.7% in 2002.

Jeopardizes child nutrition programs on which 2.7 million children in Texas depend. The House Republican budget block grants funding for the school lunch and WIC program. Nationally, their budget reduces funding for child nutrition programs by more than $10 billion over seven years and 11% in 2002, compared with current law.

IMPACT OF PUBLIC HEALTH AND ENVIRONMENTAL CUTS ON CHILDREN IN TEXAS

Allows sewage to flow into waters where children in Texas live and play. The Republican budget reduces new funding to keep water clean by 33% compared with the President's budget.

Texas will lose $16.7 million to treat waste water pollution and protect public health. The cuts means that raw sewage will pour into local waters—waters that our children often swim and play in—from outdated treatments systems in Texas.

Jeopardizes the water that children in Texas drink. Republicans are cutting low-interest loans to cities and towns in Texas for drinking water treatment facilities by $42.9 million in 1996.

Pollutes the air that children living near 32 oil refineries in Texas breathe. These refineries emitted more than 27 million pounds of toxic air pollution in 1993, putting children in the surrounding communities at risk of serious health problems, including cancer and respiratory illnesses such as asthma. The Republican budget halts the President's effort to protect the health and safety of children living near these refineries.

Exposes children in Texas to hazardous waste. The Republican budget cuts spending on toxic waste cleanups by 36%—$560 million—below the President's balanced budget in 1996.

Nationally, five million children under the age of four live within four miles of a Superfund site. These cuts will stop or slow the clean-up of sites nationwide that pose a threat to public health and the environment.

The Republican cuts will stop or slow the clean-up of at least 4 toxic waste sites in Texas. The Republican cuts will stop or slow the clean-up sites near the following communities in Texas: Jasper, Houston, Texarkana, and Arlington

IMPACT OF CUTS ON SAFETY NET FOR CHILDREN IN TEXAS

Denies 30,540 children in Texas child care assistance in 2002. The House welfare bill block grants and cuts federal child care funding for low-income children in Texas by $222.6 million over seven years, cutting child care assistance to 30,540 children in Texas.

Cuts foster care and adoption for vulnerable Texas children by $359.5 million over seven years compared with current law. The House welfare bill cuts child protection for abused and neglected children in Texas by 24% in 2002.

Eliminates cash assistance for 5,260 children in Texas simply because they were born to unmarried mothers under 18, when the House welfare bill is fully implemented in 2005.

Cuts assistance for 222,000 children in Texas simply because their paternity has not been established, when the House welfare bill is fully implemented in 2005.

IMPACT OF ENERGY CUTS ON CHILDREN IN TEXAS

Eliminates home energy assistance for 22,325 children in Texas. The Republican budget eliminates $29.1 million that helps low-income families in Texas with their home heating and cooling bills. Lower energy bills allow families to spend more money on basic needs.

Denies about 1,472 children in Texas protection from bad weather conditions. The Republican budget cuts weatherization assistance for families' homes in Texas by $2.7 million in 1996.

IMPACT OF HOUSING CUTS ON CHILDREN IN TEXAS

Forces families of 204,700 children in Texas to pay more rent. The Republican budget raises rents by an average of $200 a year for the 1.4 million low-income families with children assisted by Section 8 nationally. The median income of these families is only $6,800.

Denies families of 5,092 children in Texas the opportunity to move from public housing to renting their own home. The Republican budget eliminates funding for new Section 8 certifications and vouchers, denying rental assistance to low-income families and children who wish to live in privately-owned housing.

Eliminates protection for 4,744 children in Texas from drugs and drug-related crimes in public housing. The Republican budget zeroes-out the Public Housing Drug Elimination program which protects more than 1 million children living in public housing nationwide from drugs and drug-related crimes. Funds will be eliminated for public housing tenant patrols, local law enforcement activities, security personnel, and physical improvements to improve security.

7,990 children in Texas will be forced to remain in poor and unsafe housing conditions. The Republican budget cuts public housing modernization in Texas by $12.9 million in 1996, severely hindering efforts by housing agencies to rehabilitate run down public housing projects and provide much needed security and anti-crime programs.

10,716 children in Texas will have to go without basic housing needs. The Republican budget cuts public housing operating subsidies in Texas by $13.3 million—a cut of 14% in 1996—forcing local agencies to neglect basic housing needs, such as fixing leaking ceilings and broken windows and providing security and social services.

Denies assistance to 1,143 homeless children in Texas. The Republican budget cuts homeless assistance by 40% in 1996, cutting funding for the homeless in Texas by $30.3 million in 1996.

Mr. LAFALCE. Mr. Chairman, I rise in opposition to the reconciliation bill.

Balancing the budget and reducing the Federal deficit are worthy goals—goals the Clinton administration is aggressively pursuing. But there are many ways to achieve those goals, and the Republican package before us today chooses the wrong path.

Any effort to balance the budget must be crafted carefully so as to place any new burdens where they can best be borne. The proposal before us does precisely the opposite. It is filled with instances in which programs which aid working Americans and assist local communities are being sacrified so that tax breaks or other advantages can be given to the well-off and the privileged.

I will confine my remarks at this point to the banking portions of this bill. But I would note that these provisions are symptomatic of what has occurred in the bill overall. The thrust of these provisions is to serve the interests of the banks, not the interests of the local communities and small businesses those banks are supposed to serve.

The Community Reinvestment Act [CRA] has been an important means of ensuring that lenders make a real commitment to meeting the credit needs of the local communities from which they draw their funds. Provisions in the banking portion of the reconciliation bill totally undermine the CRA program by effectively exempting the vast majority of banks from the law's coverage; largely eliminating the only enforcement mechanism available; and insulating the vast majority of the Nation's banks from public comment on corporate plans that can adversely affect the community.

As ranking Democrat on the Small Business Committee, I particularly object to the unnecessary and unjustified prohibition on small

business data collection included among the CRA provisions. The development of locally based small businesses is critical to the economic growth of our communities. Yet we are all aware of the problems local small businesses have obtaining capital, and smaller firms have always been underserved by traditional lenders. We badly need better information in order to objectively assess banks' claims that they are adequately serving local businesses and to press for greater outreach.

The gutting of the CRA program was totally unnecessary. The Republican proposal actually effected savings substantially in excess of the savings required under the Budget Resolution requirements. Yet the package then gratuitiously proceeded to gut the Community Reinvestment Act program, which brought about only the most minimal additional savings.

This issue simply does not belong in this reconciliation package. Some reform of the CRA program has certainly been in order to reduce unnecessary regulatory burdens on our smaller financial institutions. But we have new CRA regulations that meet the need—they streamline bank reporting requirements without eliminating the obligation for banks to comply with this important program. The CRA provisions in the budget reconciliation bill are simply a gratuitous effort to effectively eliminate the program through the back door before recent reforms are even given a chance to work.

This package has the right goal, but the choices made reflect values I cannot accept. I would urge my colleagues to vote against this legislation.

Mr. MOAKLEY. Mr. Chairman, I rise today in strong opposition to this Republican assault on our Nation's children. It is cruel, it is shortsighted, and it is just plain wrong.

This Republican budget which rewards the rich in our society, cuts Medicaid by $182 billion over the next 7 years, and ends its entitlement status, leaving it up to the States to decide whether or not they want to provide basic health care to children, the disabled, and the low-income elderly. Medicaid is a safety net for America's children. Although most people view Medicaid as a welfare program, nearly 60 percent of Medicaid children are from low-income working families. Medicaid actually supports employment since low-income working families don't have to choose between working and ensuring that their kids receive checkups, immunizations, and basic health care. The Medicaid Program gives parents an incentive to stay in the work force and not go on welfare in order to qualify for Medicaid. Even Presidents Reagan and Bush thought this was a good idea, and expanded the program to working families. But today, Mr. Speaker, we are cutting this important safety net from America's children. My Republican colleagues keep talking about priorities and securing a better America for our children and grandchildren, but this bill does nothing of the sort. This budget will cripple the future of our children and grandchildren.

My State of Massachusetts, where we have some of the finest hospitals, physicians, and research facilities in the world, will lose $4 billion over the next 7 years. These cuts will eliminate Medicaid coverage for 113,644 children in Massachusetts by 2002. It will deny 12,370 disabled children from receiving benefits by 2002. Kids with severe disabilities will be denied access to specialty care and their parents will not be able to afford to pay for their expensive health care bills. 227,000 children in Massachusetts will not receive food stamps by 2002, and 582,000 children who depend on WIC will be vulnerable when the State decides to use the resources for other purposes than ensuring kids get good nutrition. And I could go on and on and on.

But as we debate this draconian budget package and as I listen to the Republicans blame the poor, the disabled, and children for our country's dire financial straits—I remain confused. How come we can still afford a $245 billion big fat juicy tax break and throw the Pentagon an extra $7 billion that they did not even ask for? Mr. Speaker, this clearly represents the priorities and the tough choices of the Republican party. Reward your wealthy friends and step on the little guy.

I urge my colleagues to reject this stealth attack on America's children and defeat this budget.

Mrs. KENNELLY. Mr. Chairman, I am very concerned that section 936 is phased out in reconciliation. Section 936 has played a critical role in economic development in Puerto Rico—creating and keeping good, high-quality, well-paying jobs on the island. Many of my constituents in Hartford, CT, have friends and relatives employed by section 936 companies in Puerto Rico.

I am also greatly concerned that we consider this drastic measure just 2 years after dramatic reform of the 936 program and without consultation with the Puerto Rican Government. We have barely had time to examine the impact of the 1993 changes and yet we are poised to eliminate the program. Such actions surely don't facilitate business planning.

I am concerned about the impact on the island as 936 disappears. Poverty is already very high and good jobs scarce. What will remain for the people of Puerto Rico? I'm afraid that we will only fully realize just how effective it has been when the companies that have enjoyed section 936 begin to leave for other parts of the Caribbean or Ireland.

It is because of these concerns that I am supporting Governor Rossello's new proposal for economic development in Puerto Rico. The Governor has proposed an economic incentive program that would replace section 936 with a wage credit to help spur job creation on the island. This proposal was presented after the committee mark was drafted, and thus was not considered by the Ways and Means Committee. It is my hope that Governor Rossello's proposal will be given serious consideration in conference and ultimately adopted.

Mr. RAHALL. Mr. Chairman, I rise in strong opposition to H.R. 2491, the so-called Seven Year Budget Reconciliation Act.

It never ceases to amaze me that, just when you think you've heard it all—you hear just one more piece of rhetoric that again, you think caps everything else you've ever heard.

Now as if the changes and cuts in Medicare were not bad enough, I read in this morning's Post that just yesterday, Senate majority leader and Presidential candidate DOLE expressed his pride in his vote, 30 years ago, against Medicare's enactment. He says he knew even then it would not work. He bragged about fighting the fight against Medicare. DOLE said: ''I am against Government-run health care.''

So as not to be upstaged and left out of the Presidential hopeful limelight, Speaker of the House GINGRICH spoke right up about his round of massive cuts to Medicare by stating:

> ''Now we don't get rid of it (Medicare) in round one because we don't think that's politically smart and we don't think that's the right way to go through a transition. But we believe it (Medicare) is going to wither on the vine because we think people are voluntarily going to leave it.''

People—seniors—are not going to voluntarily leave the program, they are going to be starved out of their fee for service plans they are now in due to a lack of funding, and forced into managed care—and boy, wait till seniors find out about managed care. It would be helpful if the Republicans would just say what they mean. Not managed care—but rationed care for the elderly.

H.R. 2491 is, without a doubt, the most onerous, burdensome, hurtful bill I have ever witnessed in this House in my 19 years service here. There are more than 30 major-major changes in existing laws in this bill—major-major-changes—reforms that will change the face of how this Nation treats children, women who are pregnant and poor, senior citizens who are tiresome because they are old, the unemployed and the underemployed who are desperately seeking work and a dignity of life; young people in search of a college education and a better life for themselves and their children; children in need of day care, and their parents who would work if it could be found instead of taking welfare; for the disabled child and adult—losing coverage under Medicaid and Medicare.

I am deeply concerned for the hundreds of people in my district who have written to me about a 40-percent cut in Medicare reimbursement for home-delivered oxygen therapy—without which they would not be able to breathe. There used to be a joke about taxes—that if it keeps up, folks said, first thing you know they will be taxing the air we breathe. Well, today's the day.

As I said, there are over 30 major changes in current law in this bill, not the least of them is the decimation of the Earned Income Tax Credit for working families with children. Not the least of them is a provision that invites, encourages corporations to raid workers' pension funds. Let us hope that, when those workers retire, the money will be there to pay their pensions—but do not hold your breath. Just one investment gone bad can wipe out a company's pension plan overnight.

And lest anyone forget—veterans are also mistreated under this so-called budget reconciliation bill—let me just say that cutting $6.5 billion from veterans health, housing, education and other programs is no small amount.

This bill codifies into law the massive cuts in Medicare and Medicaid, and it codifies into law the so-called Welfare reform bill passed by the House earlier this year.

There will be no cash assistance to teens who have babies—and this is an unacceptable encouragement and incentive for these young women to get abortions—to kill their unborn babies. This is unconscionable.

Mr. Speaker, this bill decimates at least 30 major programs. I call this the Republican Judas bill. Republicans have brought this bill to the floor for 30 pieces of silver.

The bill specifically does the following things, and I am providing estimated impacts on various programs and populations in West

Virginia and in my Third District as available to me:

1. Cuts $270 billion from Medicare (but we still have not seen the language—text to be supplied they say—325,000 seniors in West Virginia will be hurt by this cut, paying up to $1,800 more per individual and $3,600 for couples for health care by increasing premiums to $93 a month; requiring a 20 percent copayment for home care; by increasing the $100 deductible to $150 and above in the out years; by starving the fee for service program, forcing seniors into managed care plans.

2. Cuts the wealthiest Americans taxes by $245 billion—giving them a tax break of up to $20,000 a year, but only approximately $159 for families with incomes between $20,000 and $30,000 a year (while increasing taxes by up to $2,600 a year for families earning $28,500 or less by repealing the EITC).

It is important to note here that this bill also repeals the Alternative Minimum Tax [AMT] for huge corporations, which means that more than 130 of largest U.S. companies in the United States will not have to pay any taxes.

3. Cuts $182 billion from Medicaid and block grants it, hurting children, the elderly, the poor and the disabled (West Virginia's Medicaid cuts by 2002 will amount to 42 percent of its funds, terminating benefits by 2002) for an estimated 140,000 out of current 367,000 recipients of Medicaid for a total of $4.5 billion over 7 years (and out of approximately 548,958 seniors who will be eligible in WV by 2002). It includes terminating benefits also to children and disabled persons, and will deny long-term nursing care to 26,000 seniors.

4. Reduces the Earned Income Tax Credit by $23 billion, raising taxes on the most vulnerable among us (there are 38,500 families eligible for EITC in WV's Third Congressional District, and 93,834 families throughout the State). Eligible families can lose up to $2,600 per year depending upon income and number of children.

5. Allows corporations to raid worker pension funds to the tune of $40 billion; (bad investment of pension funds could wipe out workers' pensions overnight; the plan raises revenue for first few years but is estimated to increase the deficit by $32 billion in the out years of the 7 year budget). Welcome to the revolution all corporate raiders.

6. Terminates the low-income housing tax credit (to save $3.5 billion).

7. Eliminates the student loan interest exemption, costing students $3.5 billion (in West Virginia 39,500 students will pay as much as $2,111 more for college loans, and as much as $9,424 for 5,600 graduate students; it denies Pell grants to 2,600 students in our State in 1996 alone).

8. Cuts $1.1 billion from the title 1 education program for poor elementary school children in need of remedial instruction in reading and math (5,999 West Virginia children will be cast aside when the State loses more than $12 million in title funds).

9. Cuts $6.4 billion in veterans benefits by rounding down their COLA's repealing automatic compensation, and increasing copayments for their drugs. (This will affect 62,700 veterans in the Third Congressional district in WV).

10. Terminates the Federal Direct Student Loan Program, eliminates service improvement and costing schools already in the program additional money. (There are 25 colleges, universities, and trade schools currently in the direct lending program, six of which are in the Third District).

11. Raises interest rates on education loans to parents.

12. Cuts $1 billion in funds to oversee the Federal Student Loan Program.

13. Dismantles the Commerce Department, replacing it with 7 new agencies (new costs of 7 new agencies to be supplied according to the Republicans).

14. Increases HUD rental payments by $4 billion.

15. Increases contributions for GI bill benefits by $1 billion.

16. Block grants and cuts welfare spending by $102 billion (WV would lose approximately $90 million, affecting 17,000 children who will be dropped because they are current recipients of AFDC, and 47,000 children because they are in families who have been on AFDC more than 60 months; $134 million in food stamp assistance affecting 62,500 persons; a loss of $17 million in child protective/foster care services; loss of $10 million for WIC services to pregnant women).

17. Repeals the school lunch/breakfast programs (WV loses $4.2 million a year, affecting 195,130 West Virginia children).

18. Open Alaska's Arctic National Wildlife Refuge to oil exploration for $2.3 billion.

19. Giveaways to western mining companies that pay for land but not silver and gold beneath it.

20. Allows ranchers to pay less for grazing fees.

21. Weakens community reinvestment act by allowing banks to self certify that they are in compliance with CRA.

22. Eliminates Federal Housing Administration's foreclosure relief program.

23. Eliminates affordable housing programs run by the RTC and FDIC (reduces spending on public housing capital 46 percent below the President's request, by cutting $2.7 million in 1996 alone, and cuts 40 percent from assistance to homeless persons at a cost of $1.4 million in West Virginia).

24. Extracts $10 billion from Federal worker retirement.

25. Repeals Service Contract Act giving prevailing wages to workers such as janitors, laundry helpers, and security guard personnel creating a real underclass of working Americans who already earn very low wages.

26. Makes $13 billion in unspecified agriculture savings (text to be supplied, they say) (from what we know, West Virginia loses $3 million in farm spending along with drastic reductions in support for commodity programs).

27. Taxes innovation by diverting fees paid by users of the Patent and Trademark office.

28. Increases electric rates for rural consumers by selling power marketing administrations.

29. Exempts special tariffs for imported Timex watches—competing against our own industry and its workers.

30. Summer jobs are elminated, cutting West Virginia by $9,342,000 affecting 6,460 youths; dislocated worker training cut by $3,646,000 affecting 1,490 West Virginians; adult training dollars cut by $1,848,000 in WV affecting 690 adults; older American employment programs in WV cut by $330,000 affecting 80 senior citizens; safe and drug-free schools funding in WV cut by $1,812,000 affecting 52 out of 55 county programs; senior nutrition programs in WV cut by $189,000 affecting 122,900 seniors; Head Start is cut by $1,073,000 affecting 420 Head Start children (if not more), denies 6,850 disabled children SSI cash benefits in 2002 (55 percent of those now eligible) by cutting $195 million.

Mr. BORSKI. Mr. Chairman, I rise today to express my deepest opposition to H.R. 2491, the Republican Budget Reconciliation Act. This legislation robs retired and working Americans of their hard-earned benefits and pay in order to lavish huge tax breaks for the wealthiest Americans.

The majority's plan cuts $270 billion from Medicare and $170 billion from Medicaid over the next 7 years in order to pay for $245 billion in tax breaks for the wealthy.

In Pennsylvania, the second oldest State in the Nation, one out of six residents is a Medicare recipient and one out of seven is a Medicaid recipient. In the third congressional district, the 20th oldest district in the Nation, approximately 100,000 residents rely on Medicare. Not only will the senior citizens in my district suffer, but all citizens, our health care system and the entire Philadelphia economy will be endangered by these insidious cuts. As a result of the majority's plan to gut Medicare and Medicaid, an astounding $531 million in revenue will be withdrawn from the hospitals in the third congressional district over the next 7 years. Hospitals in Philadelphia will lose over two billion dollars, and across Pennsylvania, seven and a half billion dollars will no longer be available to protect the health of our citizens.

Let me give you an example of one particularly vulnerable hospital. At Episcopal Hospital in Philadelphia, 88 percent of the people who enter the hospital are Medicare or Medicaid beneficiaries. This puts Episcopal Hospital at the top of the critical list, a record of hospitals in danger of closing due to these cuts. Eleven hospitals in Philadelphia, including three in my district, are on that dreaded list. In Pennsylvania, a total of 54 of our 238 hospitals have the misfortune of making the list. If these cuts are approved, I don't know how Episcopal Hospital, or the other endangered hospitals, will survive.

The closing of these local hospitals would cause some 348,000 patients across Pennsylvania to lose access to vital health care services. Health care workers—as many as 40,000 in Pennsylvania, over 25,000 in Philadelphia and up to 6,000 in the third district alone, will be at risk of losing their jobs. This devastating job loss means pain for individuals, as well as ruinous economic consequences for their communities.

Will these cuts improve Medicare for senior citizens. The answer is a resounding, ''no''. Senior citizens will pay more for their health care, have less choice regarding their doctor, and receive a lower quality of care. Balance billing protection, which prohibits healthcare providers from charging seniors more than 15 percent above the Medicare reimbursement rate, will be eliminated. Seniors who enroll in HMO's because it has become financially impossible to remain with their family doctor and will have no protection against additional charges once they are locked into an HMO. That's the bad news. There is no good news in this Republican plan for Medicare.

But what this plan does to Medicaid is even worse. Everyone knows that Medicaid is primarily for those who are less fortunate. But

what people across America don't realize is that Medicaid also pays for nursing home care of senior citizens. In Pennsylvania, 65 percent of all long-term care costs in nursing homes are paid for by Medicaid.

What happens to a senior citizen who needs to go into a nursing home? First, you learn that the cost of a modest nursing home averages about $4,000 a month. Then, you learn you must exhaust all your savings, which you have worked so hard to accumulate over your lifetime, to pay for nursing home care. Then, when your savings are gone, Medicaid provides the nursing home care and safety net you so desperately need.

Under this Republican plan, this critically needed safety net that Medicaid provides is gone.

The loss of the Medicaid safety net will harm not only seniors, but their families as well. Medicaid has always made sure not only that seniors would be cared for, but that their grown children, struggling to provide for their own families, would not be financially devastated by exorbitant nursing home costs. As a result of these cuts, this safety net for families is gone, too.

Certain laws that enable the Government to stop fraud, waste, and abuse are gone as well. For those who are still able to afford nursing home care, the guarantee that they will receive quality care is now gone, because the Republican plan eliminates standards for nursing homes, formulated in 1987, which protect nursing home residents from negligence and abuse.

In America, 40 million Americans, many of them working people, have no faith insurance. Our goal should be to help all people—especially our seniors, children, the disabled, and those who go to work each and every day—obtain health care coverage. Under the Republican plan, the only thing we are guaranteeing is that the number of uninsured Americans will grow by at least 8.8 million.

These exorbitant and heartless cuts are not designed to fix or save Medicare. They are being enacted in order to give $245 billion in tax breaks to the country's wealthiest individuals. Despite all the rhetoric from the majority, one fact is clear: the savings from Medicare will not go back into the Medicare trust fund. They will pay for tax breaks for the wealthy. Our senior citizens on fixed incomes cannot afford these increased costs. The Medicare system cannot afford these excessive cuts.

I have traveled my district and asked hundreds and hundreds of my constituents if they support $270 billion in Medicare cuts and $170 billion in Medicaid cuts in order to provide $245 billion in tax breaks for the wealthiest in our country. The answer is always the same—No.

Mr. Chairman, the Republican majority is not content with their attack on America's senior citizens. They have expanded their assault to include our Nation's hard-working families. The majority has proposed drastic cuts and allocation formula changes in the highly successful earned income tax [EITC] program. This program provides a refundable tax credit to lower income, working Americans in order to keep them off welfare and in the work force.

At a time when the real earnings of the American working class are sinking to historic lows, these EITC changes in the Republican budget reconciliation effectively raises taxes by $22 billion for more than 14 million hard-working families. In northeast Philadelphia alone, 21,000 individuals will be impacted by the cuts at a loss of over $31 million.

Under the measure, non-taxable Social Security benefits and retirement income would be counted for purposes of determining if someone is eligible for EITC, effectively limiting the possibility of a great number of American families from participation in the EITC program. In addition, this proposal phases out the earned income tax credit faster than under current law, so that certain families eligible under current law would be denied the credit because their income would be too high, while other families would receive a smaller credit than they would under current law. For example, a working family of four making approximately $27,000 a year will no longer be eligible for the EITC credit, effectively raising taxes on hard working families.

For two decades, the EITC program has enjoyed strong bipartisan support. It has been the most effective work-promoting program of the Federal Government. Although the Republicans praise the virtues of self-reliance, their actions in this bill will severely reduce work incentives for the segment of the work force that must struggle to maintain stable work and family lives.

Mr. Chairman, the Republican majority speaks about building a secure future for our children, yet their budget reconciliation proposal will slam the door of educational opportunity on young people across the country. This proposal unfairly targets middle-class American families by eliminating over $10.2 billion from valuable Federal student aid programs.

In this modern day, where an advanced educational degree is essential for success in the global marketplace, the Republican budget proposal would effectively take a college education out of reach for middle and working class families.

The majority's proposal would terminate the Federal direct student loan program and eliminate the provision of current law under which the Federal Government pays the interest costs of student loans during the first six months after graduation. As a result, the cost of a college education would rise by as much as $3,100 for undergraduate students and $9,400 for graduate students.

In addition, this proposal would increase the interest paid by parents on Parents' Loans for Undergraduate Students [PLUS] that they take out to help finance their children's education. In Pennsylvania's Third Congressional District alone, over 10,000 PLUS loan recipients would be forced into higher interest rates, while at the same time, the Republican proposal caps the amount which American families can borrow from the Federal Government to pay for the education of their children.

At a time when we should be placing great emphasis on the education of our children, who are our Nation's future, the Republican budget reconciliation will make it harder for American children to succeed in the global marketplace.

Mr. Chairman, we all want to balance the budget. But there is a right way to do it and a wrong way to do it. The Republican reconciliation bill is the wrong way to do it. The Republican majority is inflicting this pain on the American people not just to balance the budget, but also to allow them to enact the crown jewel of their Contract With America's wealthy and corporate interests—tax breaks for the wealthy.

The majority speaks of family values, but, it is clear that the only families the majority really values are wealthiest ones. Most American families—those earning under $50,000 a year—will lose $648 or more under the GOP plan. Meanwhile the wealthiest American families—who earning over $350,000 a year—will gain over $14,0000 under this plan.

Mr. Chairman, where I come from in Philadelphia, anybody earning $350,000 a year is a very wealthy person. They are in the upper class, not the middle class. And they do not need a huge tax break.

And Mr. Chairman, in Philadelphia, where the large majority of the people are in the hard-working middle class, struggling to make ends meet, the last thing they need is to see their taxes increase in order to benefit the wealthy. What the workers and families of my district need is fairness and equity and compassion—not more taxes to finance tax cuts for the rich, and not devastating cuts in education and Medicare and Medicaid.

I will vote against this mean-spirited legislation and I urge my colleagues to do the same.

Mr. QUINN. Mr. Chairman, as a leader in the movement to eliminate wasteful government spending, I rise today in support of H.R. 2491, the Seven Year Balanced Budget Reconciliation Act.

This measure will achieve the first balanced budget in more than a quarter of a century, and is the right thing for America's families. This is a historic vote and one that will be remembered as the first step to ensuring the future of our children and our grandchildren.

I promised in my first campaign more than 3 years ago to fight for reform and to balance the budget. This bill goes a long way in accomplishing both those goals. We have reached a crisis point. The current Federal debt is approximately $4.9 trillion, amounting to $19,000 for every man, woman, and child in America.

This bill means real money for America's families. It allows the working men and women of this country to keep more of their hard earned money in their own pocket, instead of sending more and more of it to Washington.

It simply boils down to doing the right thing for America and its families. By balancing the budget, we'll go a long way toward ensuring that the American dream—the dream that our children will be better off than we are—will continue for generations to come.

The Seven Year Balanced Budget Reconciliation Act overhauls nearly every major Federal spending program except Social Security. The measure also includes a plan to preserve, protect and strengthen the Medicare Program which still allows Medicare spending to increase for every senior, every year.

The bill also includes genuine welfare reform which emphasizes work, families, and hope for the future. Under welfare reform, States are given the authority to punish food stamp traffickers. We finally will be able to protect our innocent children from criminal activity that threatens their health and well-being.

As a strong advocate for reforming the Medicaid Program to allow States like New York to reinvent Medicaid, with other members of the New York delegation, I was able to obtain significant improvements for the State. In a move that will literally mean billions of dollars for New York, congressional leaders agreed to

change the provision and gradually reduce the rates of growth so that the State has more time to reform its system. An additional $5.8 billion will be made available for Northeastern States, particularly New York and New Jersey.

Although I see this improvement as a step in the right direction, I'll be working for additional improvements in the Medicaid formula.

We cannot turn our backs on the future to continue the failed policies of the past. The most significant gift we can leave our children is a legacy of sound government.

Mr. MONTGOMERY. I want to commend the Ways and Means Committee for reporting legislation which ensures that employers who reemploy veterans after military service are not penalized for restoring their pension benefits. Last year, the Congress enacted the Uniformed Services Employment and Reemployment Rights Act of 1994 [USERRA]. This law guarantees that reservists and other persons who go on active military duty will be restored to their civilian jobs without any loss of seniority.

This law originated in 1940 and has been the subject of a number of Supreme Court decisions. The Supreme Court has held that one of the most important benefits of seniority, the right to a pension, is a protected benefit to which a veteran is entitled.

In discussions with various pension experts last year, it was pointed out that technical amendments to the Internal Revenue Code were needed. The existing law limits employer and employee contributions to tax-favored pension plans as well as benefits payable to reemployed veterans. Other requirements for which there is no special provision for contributions with respect to a reemployed veteran include the limit on deductible contributions and the qualified plan non-discrimination, coverage, minimum participation, and top-heavy rules.

Earlier this year, I introduced legislation, H.R. 1469, to allow employers who reemploy veterans to comply with both USERRA and the Internal Revenue Code when they endeavor to restore veterans' pension benefits as required by USERRA. The bill would provide assurance to employers that such contributions would not in any way disqualify a tax-favored plan. I am pleased that the bill before the House today includes the text of H.R. 1469.

It is very important to note that the legislation before the House today would allow employers and pension plans to make contributions for any veteran—World War II, Korea, Vietnam, as well as Persian Gulf. In essence, this provision corrects an oversight contained in the 1974 ERISA legislation which failed to take into consideration the rights of reemployed veterans, and is a good measure for employers as well as veterans.

Mr. MOAKLEY. Mr. Chairman, I rise in opposition to the Republican budget reconciliation bill. The bill makes unprecedented cuts in the Federal Government's investment in education, health care, and job training in order to give wealthy Americans a very big tax break.

Over the next 7 years, the Republicans will cut funding for education programs by 33 percent. That means 2,622 students in Massachusetts will be denied Head Start, 16,200 Massachusetts students won't get remedial education for basic and advanced skills, 98,900 school children in Massachusetts will not benefit from Goals 2000, and 12,100 students in Massachusetts won't have summer jobs.

The Republicans went to cut funding for the Safe and Drug Free Schools Program. This reduction will cripple our efforts to curtail drug use and keep drug related violence out of our schools. Nearly every school district in my home State of Massachusetts reaps the benefits of this program.

Despite several decades of Federal investment in elementary and secondary education, many classes are still overcrowded, many school buildings are deteriorating, and many classrooms don't have books, pens, and paper. Clearly, this is not the time to cut Federal funding for education.

In terms of higher education, the Republicans propose to eliminate and scale back many Federal financial aid programs. Many parents in my congressional district work very hard to send their children to college in the hopes of attaining a better life. Without Federal financial assistance, the cost of higher education would be prohibitive. Do my colleagues understand that the cutbacks in the Republican budget will betray the hopes and dreams of millions of high school seniors?

I can not in good faith vote for a bill that cuts funding for education in order to pay for a very big tax break for the wealthy. These cuts are short sighted and will lead to embarrassingly low educational standards, higher property taxes, and many social problems caused by a poorly educated society.

Mr. BUYER. Mr. Chairman, we have kept our commitment to the American people and brought an end to the Washington tax and spend practices of old—which have saddled our Nation with almost $5 trillion of debt.

The question about balancing the budget is not simply about financial practices, but rather a question of fiscal morality. We cannot continue to spend money that we simply do not have and pass the bill on to our children.

On October 20, 1995, the Chairman of the Federal Reserve Board, Alan Greenspan, again called for Congress to balance the Federal budget. He said doing so would have a positive effect on America's economy. A balanced budget will mean lower mortgage rates and lower interest rates. It means lifting our children from their growing share of the national debt. In fact, a child born today will pay and average of $187,000 in interest alone on the debt.

We have put America on the path to a balanced budget by eliminating wasteful and bureaucratic programs. We have returned programs back to the State and local governments where they can be run more efficiently and effectively.

The debate is clear: Those who think wasteful Government programs should be cut or eliminated, inefficient programs reformed, and Americans given tax relief, will vote for this balanced budget. Those do not, will vote against this historic balanced budget plan and continue the status quo.

Ms. KAPTUR. Mr. Chairman, I rise today in strong opposition to the Gingrich budget reconciliation bill.

First, let me state at the outset that I support a balanced budget. I voted in favor of the balanced budget amendment that passed in January 1995. I am committed to putting our fiscal house in order by supporting further cuts in spending to reduce the deficit. However, I cannot in good conscience support this budget bill, which would unfairly place the burden of deficit reduction on the backs of our Nation's seniors, children, disabled citizens, students, veterans, and working families, in order to provide a tax cut to the privileged few.

Overall, middle-income working families earning less than $50,000 will lose $648 a year as a result of the tax provisions and cuts in programs under this bill, while wealthy families will receive an average tax cut of $14,050 per household. This bill imposes a $23.3 billion tax increase on 14.2 million working families with incomes under $28,553. Two-thirds of the $900 billion in program reductions in H.R. 2491 come from programs that are absolutely vital to the health, welfare, and safety of working men and women, their children and families—$270 billion from Medicare; $170 billion from Medicaid; and $200 billion in education, health and safety, and job training programs.

MEDICARE

The Republican bill makes deep cuts of $270 billion and sweeping changes in the Medicare Program, which provides medical insurance to more than 36 million older and disabled people in our country. This body should have held comprehensive hearings on how best to structure the most extensive changes to the program since its inception 30 years ago—but did that happen? No, it did not. The legislative process used to move the Republican Medicare plan is a disgrace. Their plan was introduced on September 29, and one day of hearings was held before it was even distributed to Members. The House then left town for a 10-day recess. Upon returning on October 9, around-the-clock markups in two committees proceeded quickly. The very people who will be affected the most by these cuts, our Nation's seniors, were subject to arrest and silenced as the Republican leadership rushed their plan through the committees. We have spent 48 days holding hearings on Whitewater, Ruby Ridge, and Waco; why couldn't we manage to hold more than 1 day of hearings on Medicare?

The trustees of the Medicare Program signalled earlier this year that reform is needed. I agree. There is a short-term financing crisis in the part A hospital insurance trust fund and a long-term financing challenge that needs much more careful consideration. But, for starters, the Republican proposal makes three times more in cuts than are immediately necessary to make Medicare solvent in the short term. Thus, premiums will increase by about $400 per senior. One-third of all senior citizens in our Nation basically live on Social Security. If costs go up, they will have to choose between health care and other essentials. Seniors will have to give up their own doctors as they are herded into HMO's with which seniors have little experience, as only 9 percent of current seniors participate in HMO's. Seniors will be kicked out of nursing homes, or their families will be bankrupted paying their $40,000 a year tab, due to deep cuts in long-term care.

The Gingrich plan makes Medicare solvent only until 2006—the same as Democratic plans that cut only one-third as much. This much is clear: The Republicans had to slash Medicare to pay for their $245 billion tax break for the privileged few—but not a single penny goes to shore up the Medicare trust fund.

One of the most unsettling aspects of the Republican plan is its utter failure to address waste, fraud, and abuse. Their plan will make

it easier for unscrupulous medical practitioners and insurance providers to beat the system, and harder for prosecutors to convict them. It will weaken existing laws that punish fraud and abuse, and raise the burden of proof that the Government would have to meet in order to prove such cases. This bill would weaken the law that currently requires providers to ensure that the claims they submit to Medicare are true and accurate. It also creates new exemptions for those who offer incentives to physicians for patient referrals. Moreover, this bill would mean an even larger decrease in the already-insufficient number of fraud inspectors at the Department of Health and Human Services, at a time when over half the States in our country have no fraud inspectors whatsoever, and 11 States have only two.

I recently met in my district with a group of citizens representing health professions, business, labor, retirees, insurance, and hospitals. The consensus of that group was that these cuts are draconian. They told me that any changes in Medicare that result in savings should be used for the preservation of Medicare, not tax cuts for the privileged few. They said we must fight waste, fraud, and abuse, as well as the spiraling costs of prescription drugs, labs, dental care, and durable medical equipment. Based on their assessment, it is clear that the Republican plan does not address the needed reforms in Medicare.

MEDICAID

The Republican Medicaid plan is shocking. Not only does their plan slash $170 billion from the program, eliminating health care coverage for millions of children, elderly, and disabled people in our Nation. But it also completely abolishes national standards for nursing homes and institutions caring for the mentally retarded. The Republicans want to leave this matter up to the States. The majority party must have forgotten why these Federal standards were created in the first place. It was because the States had failed so miserably in maintaining decent conditions and health care in many of these facilities. With their plan, we are faced with the prospect of returning to the days when patients' basic nutritional and medical needs were not met and when caregivers regularly abused patients with inhumane practices, such as tying them down or drugging them up. Their plan also eliminates spousal asset protection in the law, which means that States could require spouses of nursing home residents to sell their homes and cars to pay for their spouses' care. This plan will force spouses into poverty. It will also allow States to require adult children to pay for their parents' nursing home bills, forcing families to make the impossible choice of nursing home care for their parents or education for their children.

VETERANS

This bill would be a major blow to America's veterans and their families. It would force veterans to pay more for health care benefits through the year 2002, by raising prescription copayments, tightening collection procedures, and increasing per-diem charges for nursing home and hospital care. And the Republican bill would limit to $90 per month need-based pension benefits paid to nonservice connected veterans and surviving spouses who do not have children and who are in Medicaid-participating nursing homes.

EARNED INCOME TAX CREDIT

I strongly oppose the provision in this bill that would raise taxes on working Americans earning under $50,000 a year by cutting the earned income tax credit by $20 billion. Millions of working Americans who are playing by the rules and paying taxes, but still earning so little that they and their families struggle to make ends meet will be hurt by this legislation. The ironic tragedy is that their sacrifice will go to pay for tax benefits for those who do not need them, to the wealthiest corporations and individuals of our Nation. It is the height of dishonesty to propose a $20 billion cut in a program intended to reward honest labor—to make sure that work is more profitable than welfare—and then to hand the benefits of those cuts to multinational corporations and the privileged few.

EDUCATION

The Republican bill jeopardizes the ability of young people in our country to invest in their own future. This bill would repeal the direct student loan program, and would cut other student loan programs—which are so vital to the educations of children from working families—by a total of $10.2 billion, in order to finance tax breaks for the well-to-do. The bill eliminates the interest-free grace period for new student loans, increases loan origination fees, adds new rebate fees, reduces the loan guarantee to 95 percent, and increases the interest rate for PLUS loans. Their bill also eliminates the direct student loan program at the request of the banking industry. This program is popular with students because they get their money faster, and with college administrators because the loans are simpler to administer. In short, this program works. Banks, however, preferring the profits and low risk of the guaranteed student loan program, demanded that the competition from the direct student loan program be eliminated. The Republicans have delivered a handout to the private financial institutions at the expense of students and colleges across our Nation.

CORPORATE WELFARE

Tempted by the cover that this massive, multibillion-dollar bill gives them, the Republicans have added special interest corporate welfare provisions that would have little chance of becoming law if considered on their own, and have missed an opportunity to end $800 billion in already-existing corporate welfare programs. In fact, this reconciliation package doles out more new corporate welfare than it cuts.

The repeal of the alternative minimum tax.—One new form of corporate welfare that can be found in this bill is the repeal of the alternative minimum tax, created in 1986 at the behest of President Reagan when it was learned that about half of large profitable United States and foreign companies avoided paying any taxes through loopholes. The Republican plan to repeal the alternative minimum tax would add an estimated $36 billion to the budget deficit, according to the GOP's own estimates.

Currently, the alternative minimum tax levies a 20-percent tax on profits, before adjusting for certain tax preferences, to help ensure that all businesses and individuals earning substantial profits cannot entirely avoid paying taxes by using various deductions, exemptions, and exclusions. If the alternative minimum tax is repealed, it is estimated that 76,000 profitable corporations would pay no taxes by the year 2005.

Corporate raids on workers' pension funds.—Perhaps the most egregious example of the Republicans putting corporate interests ahead of the interests of workers and taxpayers is the measure in this bill that would allow corporations to raid billions of dollars from workers' pension funds, jeopardizing the futures of millions of Americans. This legislation would remove steep tax penalties that currently discourage most companies from draining employees' pensions. Under this measure, businesses with pension plans holding at least 125 percent of the assets needed to meet anticipated pension liabilities would be able to drain their employees' pensions—for any purpose, for mergers or even to pay for perks like executive limousines—without even giving workers advance notice.

The new plan would undo most of those restrictions—which were passed because in the 1980's, about $20 billion was drained from private pensions as corporate executives tapped them to finance takeovers and leveraged buyouts. Congress put a stop to such raiding in the late 1980's with a 50-percent tax penalty and other restrictions.

At a time when our Nation's private pension plans are underfunded by $71 billion, we simply cannot afford to allow big business to raid the pension funds of working Americans, jeopardizing their retirement security and those of their families. Who will be left holding the bag when these pensions go belly-up? American taxpayers.

WHAT SHOULD BE DONE

I support tax fairness and a balanced budget. In fact, I wanted to support the alternative budget proposed by a coalition of my colleagues. However, three sections need further refinement. First, we need an entirely reformed medicare financing system. We do not need to force all these savings from seniors. Second, this alternative does not do nearly enough to close loopholes for corporate welfare. Third, the changes to Consumer Price Index need further study as to their effect nationwide and on seniors in my District and State.

Furthermore, any reasonable budget bill should begin with closing existing tax loopholes that allow billionaires to avoid paying a significant portion of their U.S. tax liability by renouncing their U.S. citizenship and relocating to foreign countries. This is a loophole that benefits only about two dozen people a year; however, the Joint Committee on Taxation estimates that ending this practice could provide our country with an additional $3.6 billion over 10 years—which I believe should be applied toward deficit reduction. Furthermore, if the majority is serious about balancing the budget, then it should get serious about weaning big businesses off corporate welfare and tax subsidies financed on the backs of American families. We should dedicate all of the spending cuts we have been making toward deficit reduction, not tax breaks for the well-to-do.

I cannot support the mean-spirited cuts in this budget bill that would realize the most vulnerable in our society—like the elimination of low income energy assistance—while continuing tax policies that encourage multinational companies to move overseas and provide foreign companies doing business in the United States with tax breaks. Let us eliminate the transfer pricing loophole that allows foreign-owned corporations to move profits earned in

America overseas to avoid U.S. taxes. That could save up to $143.5 billion.

Let us eliminate the foreign tax credit. Why should corporations get a credit for taxes paid to a foreign country but only a tax deduction for State taxes paid in the United States? Why not save $82.5 billion and put our States on an even playing field with foreign countries?

Let us repeal the U.S. territorial possessions tax credit that entices our companies offshore. That would save $19.7 billion. With that we could avoid Gingrich's tax increases on working families through cuts in the earned income tax credit.

Above all, let us pass comprehensive campaign finance reform, so that America will know that its elected representatives are acting in the best interests of American citizens rather than at the beck and call of multinational corporations, megabanks, and special interests. To that end, I have introduced House Joint Resolution 114, a constitutional amendment that would, for the first time, allow Congress and the States to enact reasonable limits on Campaign spending in Federal, State and local elections, ending the current practice of allowing elections to be bought by the highest bidder. I have also introduced H.R. 2499, the Ethics in Foreign Lobbying Act of 1995, which would ban campaign contributions by foreign corporations so that they could no longer purchase favorable influence with legislators, selling the future of America's working families overseas. In addition, I have introduced H.R. 2498, the FACE-IT bill, which would close the revolving door that currently exists between government service and foreign lobbying.

Let us achieve a balanced budget by having everyone pull their load in ways that strengthen America and our ability to create good jobs. Let us secure a better economic future for working Americans, not put an even heavier burden on the middle class. NEWT GINGRICH and his allies are looking for cuts in all the wrong places.

Mr. HASTINGS of Washington. Mr. Chairman, I rise in strong support of this package.

Balancing the Federal budget is critical to the future of our country. As a direct result of decades of deficit spending, each child born in America today will be burdened with a tax bill for $187,000, just to pay for the interest on the national debt over his or her lifetime.

By leading directly to lower interest rates, this package will lower housing costs, reduce car expenses, lower college costs, cut taxes, and provide more jobs for all Americans. For those of us who represent rural communities, lower interest rates will save family farmers nearly $15 billion during the next 7 years by reducing farm debt.

Mr. Speaker, I ran and was elected on a pledge to balance the budget in 7 years. That was my promise to the people of Washington State's Fourth Congressional District. I am proud to cast my vote today to keep our commitment to the American people and urge each of my colleagues to do the same.

Mr. BALLENGER. Mr. Chairman, this week, I joined my Republican colleagues in taking another step toward delivering a balanced budget and fulfilling yet another campaign promise. This week's action centered on the Seven Year Balanced Budget Reconciliation Act of 1995, which contains real world solutions toward cutting overall Federal spending, providing much needed tax relief for all Americans, and of course setting the pace for a balanced budget within 7 years.

As you know, Mr. Chairman, budget reconciliation is the final part of the budget process where all spending recommendations made by the various House committees are combined into one giant budget proposal compiled by the House Budget Committee. This legislation is designed to meet the spending blueprint laid out in the budget resolution we passed in May. The budget resolution is a viable 7 year plan that will culminate with a balanced Federal budget by the year 2002.

The overall spending cap for fiscal year 1996 was set at $1.59 trillion. Although this cap is the bottom line, specific cuts in Federal programs were based on the recommendations made by the individual House committees, with the final decisions being made by the House Budget Committee.

Mr. Chairman, preparing a budget this size is a monumental task, certainly more complicated than almost anything I have done since coming to Washington. But, let me say that this budget is the right remedy for what ills our Nation. The budget crisis we have endured for so long is the result of out-of-control Federal spending, bloated Federal programs, and tax increases created by the Democrat leadership. These irresponsible practices have left us nearly $5 trillion in debt, or more than $19,000 for every man, woman, and child in America. But, since January of this year, Republican Members of the House have been bound and determined to correct the poor spending habits of the Government and get us out of debt.

The unmistakable message of last year's election was that it was time to reduce the size, scope, and cost of the Federal Government. We heard the message. This year's budget will produce overall savings of nearly $1 trillion over 7 years. These savings will come by eliminating hundreds of Federal programs, closing or combining several Federal agencies, and eliminating many no longer needed commissions. Under our proposal foreign aid alone will be cut by $29 billion over 7 years. The current welfare system will be reformed, producing many more savings, specifically by providing block grants to the States. However, no cuts in Social Security appear in this bill and Medicare will only be preserved, protected, and strengthened by this legislation.

Mr. Chairman, balancing the budget is critical to the economic future of this Nation. But, listening to the Democrats may leave Americans concerned how this balanced budget will affect them. Let me put it this way. If a man or woman plans to purchase a house, a balanced budget will provide him or her with lower interest rates. In most cases, these interest rates will be 2.7 percent lower than today's rates. That means, taking out a 30 year mortgage of $50,000 at an annual rate of 8.23 percent, will save more than $32,000 over the life of the loan. Likewise, a loan of $100,000 will allow a borrower to save almost $65,000 over 30 years. The money saved could be better used for college, retirement, a new car or home improvements. Interest rates on car loans will see similar reductions.

Under this bill American students will find it easier to get education loans and even more importantly make them easier to pay off. A balanced budget would reduce interest rates on student loans by 2 percent. A college student who now borrows $11,000 at the new 8 percent annual interest rate will save $2,200 over the life of the loan. Students can apply these savings toward another semester of school or for other future expenses.

By balancing the budget and lowering the interest rates, businesses will be more likely to invest in new equipment, new factories, and office buildings. Within 10 years, the more attractive business climate will help to create 6.1 million new jobs over 10 years. People from all educational and skill levels will be given new economic opportunities, benefiting the Nation overall. Lower interest rates will also help our farmers retire the farm debt. By decreasing the farm loan interest rate by 1.5 percent, farmers will save $15 billion over 7 years, allowing a faster debt retirement.

Mr. Speaker, last week President Clinton admitted that he raised taxes too much in 1993. That shouldn't be news to anyone. High taxes have left the American taxpayer with fewer dollars to buy a house, save for college, build a nest egg for retirement, or start a new business. Critics of our reconciliation bill are saying that the tax cuts contained in our bill will only benefit the wealthiest Americans. How untrue this is. Mr. Speaker, the reconciliation bill calls for tax cuts for all Americans, from all income levels, including individuals, couples, and families with children. The tax cuts we Republicans have made will not benefit one group at the expense of another. All Americans will benefit, especially the middle class. Families with children will receive a $500 per child tax credit and families who care for an elderly relative at home will also receive a tax credit, just like we promised in the Contract With America.

Mr. Speaker, the Democrats have claimed that this bill will hurt our senior citizens, but the truth is the Clinton tax hike of 1993 raised taxes on Social Security benefits by 70 percent for seniors making as low as $34,000 a year. Our reconciliation bill repeals this unfair tax by reducing this tax liability for seniors by an average of $662 a year by the year 2000. In addition, reductions in the capital gains tax will further benefit seniors when they begin to cash in their nest eggs during their retirement years.

Tax cuts for American businesses will mean much needed upgrades in equipment and other new investments leading to unprecedented growth. Business expansion will lead to new jobs and economic opportunities and increased wages for millions of Americans. New businesses will spring up all around the country, and our now stagnating economy will once again start to move in many new and prosperous directions.

I would like to add a few comments about two labor provisions: The Davis-Bacon Act and the Service Contract Act.

The Davis-Bacon Act has long outlived any usefulness that it may have had, yet it remains law, adding billions to Federal construction costs and wasting precious taxpayer dollars. The Congressional Budget Office estimates that repeal would save taxpayers $2.7 billion over 5 years. For example, electricians in Chicago who are working on a Davis-Bacon project are paid about $31.32 an hour compared with electricians on a private contract who are paid an average of $18.72 an hour. Companies can't stay in business paying $12 an hour more than the market demands, and neither can government

An investigative report by the Oklahoma Department of Labor uncovered fraud, abuse, fictitious employees, and ghost projects. The Oklahoma report uncovers a systematic problem with the Davis-Bacon Act which must be addressed. As a recent TV report entitled ''The Fleecing of America,'' there is ''growing concern that the system of setting wages on U.S. government construction projects is so flawed that it's fleecing taxpayers of hundreds of millions of dollars.'' Scandals like this only serve to erode public confidence in the Government procurement process.

Much to my regret and disappointment, the reconciliation bill before us today fails to repeal the Davis-Bacon Act. However, let me assure the taxpayers that it is only a matter of time before this special interest subsidy that has been fleecing them for years is removed from the books.

The reconciliation bill does include repeal of the Service Contract Act. The Service Contract Act, like the Davis-Bacon Act, inflates the cost of services procured by the Federal Government. The Service Contract Act requirements add millions per year to the cost of Federal contracts for services such as computer programming, building security, travel services, or university research. Although it began modestly, today the Service Contract Act impacts a broad spectrum of businesses and employees ranging far beyond the original intent of the law. Repeal of the Service Contract Act saves over $3 billion over 5 years according to the Congressional Budget Office.

Mr. Speaker, It is not so difficult to see how important this legislation really is to our Nation and to future generations. I know that opponents of this bill have been telling the American public how Republicans are taking away their future, but, let me assure you, this historic piece of legislation only cuts out the fat of Government, reduces unneeded spending, and sets the pace for reaching a balanced budget. Passage of this bill only means a better Government and a brighter future for all Americans.

I yield back the balance of my time.

Mr. STUMP. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, I rise in strong support of H.R. 2491, which will make the changes necessary to balance the Federal budget by the year 2002.

I believe the rising national debt and interest on that debt have created a crisis which Congress must face now.

I supported the balanced budget amendment because it is truly a matter of saving our country from financial ruin.

Our children and grandchildren will either inherit a declining standard of living caused by congressional irresponsibility—or gain freedom from the financial excesses of current generations.

Mr. Chairman, America is culminating a 5-year commemoration of the 50th anniversary of World War II.

The World War II generation's legacy to our Nation includes victory over tyranny, winning the cold war to make the world safe for democracy, and creation of world's greatest industrial power.

As a World War II veteran, I cannot imagine my generation allowing history to also record that we mortgaged our grandchildren's future for the sake of our own comfort.

Mr. Chairman, as chairman of the House Committee on Veterans' Affairs, I want to assure Members on both sides of the aisle that H.R. 2491 balances the Federal budget over 7 years, while maintaining our Nation's commitment to veterans of military service.

As in previous years, veterans' programs have been included in the reconciliation process.

The VA Committee met its targets on a bipartisan basis, without unfairly singling out veterans for any new cuts.

In fact, we substantially met the target by taking provisions from the 1993 reconciliation bill and extending them through the year 2002.

President Clinton signed the 1993 bill and this year included many of those provisions in his fiscal year 1996 budget proposal.

Members who are overly concerned with the veterans' portion of this bill should note that the Clinton 10-year plan would take nearly three times as much from veterans' programs, without balancing the budget.

The Clinton plan cuts $17.1 billion from veterans over 10 years, H.R. 2491 only requires savings of $6.4 billion over 7 years.

Mr. Chairman, the Republican budget plan allows veterans' spending to rise.

According to the House Budget Committee, veterans' spending increases from $36.9 billion in fiscal year 1996 to $41.8 billion in fiscal year 2002.

During the next 7 years, more than $275 billion will be spent on veterans' programs—$40 billion more than during the previous 7 years.

This increased spending will occur during a time when the veteran population will be declining by 6 million or 23 percent between 1995 and the year 2010.

Yet top VA officials and numerous veterans' publications have scared veterans with dire predictions about attacks on veterans' benefits and breaking our Contract With America's veterans.

Those predictions have claimed that Congress would either means test all service-connected benefits, or cut compensation for disabled veterans, or tax veterans' benefits.

Mr. Chairman, this bill does none of those things.

It is hypocritical for administration officials to demagogue the Republican budget when their own budget is worse.

The administration has predicted numerous VA hospital closures resulting from the Republican budget proposal.

However, the GAO has stated that during the next 5 years: ''Under the President's budget proposal, total VA medical care funding would be $336 million less than the amount provided in the House proposal.''

In fact, the House fiscal year 1996 VA/HUD appropriation bill contains a $563 million increase over the fiscal year 1995 level for VA medical care.

Additionally, H.R. 2491 includes provisions to reform VA health care eligibility.

The bill would move VA from an expensive inpatient model of health care to a modern ambulatory and primary care approach.

It greatly improve VA's ability to provide better quality and access to care within available resources.

These provisions are strongly supported by the major veterans organizations.

Mr. Chairman, without a balanced Federal budget, rising interest payments on the debt will soon crowd out ability to continue providing for our Nations' veterans and other high priority programs as well.

Mr. Chairman, I want to commend the chairman of the Budget Committee, Mr. KASICH, for all his work on this bill.

Contrary to those who would demagogue these matters, Mr. KASICH and the members of the Budget Committee have acknowledged the high priority Congress traditionally gives to veterans' programs.

The Budget Committee set a deficit reduction target that the Veterans' Affairs Committee could reasonably reach.

We have done so, and the Budget Committee members, who have had to make extremely difficult decisions about Federal spending priorities, should be given credit for protecting veterans' programs while achieving a balanced budget.

Mr. Chairman, I urge all my colleagues to vote ''yes'' on the bill.

Thank you Mr. Speaker.

Mr. GONZALEZ. Mr. Chairman, I am compelled to comment on some of the provisions in this ill-conceived bill that embody recommendations of the Committee on Banking and Financial Services.

THE COMMUNITY REINVESTMENT ACT

The bill before us contains a gratuitous and needless attack on the Community Reinvestment Act [CRA]. Without directly repealing the CRA, the bill nonetheless wipes out the CRA. It is clear that the less than $30 million in savings achieved by these amendments to the CRA is not the reason they were contained in the Banking Committee's recommendations—in fact, the committee exceeded its budget targets by billions of dollars—the amendments' inclusion in the reconciliation package was part of a failed scheme by the chairman to free another, wholly unrelated piece of legislation from these gutting amendments because they were sure to incur a veto.

The CRA is a law that simply requires regulated financial institutions to help meet the credit needs of the communities they are chartered to serve, including low and moderate income communities. It is reported that this law has resulted in the infusion of $60 billion into credit-starved communities across our nation.

As a result of complaints from the banking industry about the burden of demonstrating compliance with the CRA, President Clinton ordered the regulators to revise CRA regulations, with an emphasis on performance over paperwork. After a nearly 2 year effort by the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision the regulations have been issued and have just gone into effect. Each of these regulators have objected to the committee's action to destroy the CRA. Clearly, we should give these regulations a chance to work before we reevaluate the CRA.

Most importantly, at a time when this Congress is slashing the funding that has assisted low and moderate income Americans, it is critical that we save a tried-and-true program that relies on private dollars. To do otherwise would be tragic for communities across this country. Moreover, to dismantle the CRA under the ruse that it is a necessary measure to save money is simply shameful.

HOUSING PROVISIONS

The lion's share of the committee's savings comes from affordable housing programs in the Republican majority's relentless political pursuit of savings at the expense of our nation's low income families.

The bill before us gratuitously wipes out the Resolution Trust Corporation [RTC] Affordable Housing Programs for a paltry $31 million savings—again a savings that completely unnecessary to meet the targets of the Banking Committee for budget reconciliation. This home ownership program has been a real success story for the RTC. More than 104,000 dwellings have been sold at a value of $1.5 billion under the RTC Affordable Housing Program, providing shelter to hard-pressed working families of modest means. Although the RTC shuts down after this year, there will still be property to dispose of after December 31. Once the RTC is shut down, these properties and the Affordable Housing Program will be transferred to the Federal Deposit Insurance Corporation. To wipe out this program will have serious consequences for low income family home ownership opportunities far beyond the meager savings gained, particularly as direct Federal spending for affordable housing dwindles.

The bill also will permit HUD to sell all HUD owned multifamily property without providing tenant protections or making any effort to preserve affordable housing. Last year we made significant reforms to the multifamily property disposition program with an overwhelming bipartisan vote of 413 to 9. The reforms balanced the need to preserve affordable rental housing, protect low income tenants from displacement and outlandish rent increases, accelerate the property disposition process and save the Federal Government as much as $475 million. Nothing has changed since then. The committee's contribution to reconciliation saves more than enough money without including the virtual repeal of the Multifamily Property Disposition Reform Act and without harming low income families who will surely be displaced with no assistance and no place to go.

Finally, the bill requires section 502 single family rural housing borrowers to repay Federal subsidies at the time a home is refinanced. While I concur with the requirement that borrowers repay Federal assistance at the time of sale, I believe that the provision in the committee recommendations provides the best evidence yet that we are engaging in policy by the numbers. Simply to raise $39 million from low income families, this bill would discourage families from graduating from a Federal loan program. A low income family which has scrimped and saved to purchase a home in our rural communities may be forced to pay not only the principal and interest on a refinanced first mortgage, but would have to pay at least interest on the interest credit subsidy that would now be recaptured upon refinancing.

Like so much else about this bill, much of what is in the Banking title makes no sense and is indefensible from any reasonable point of view.

Mr. FRANKS of Connecticut. Mr. Chairman, today is an historic day which marks the end of the tax-and-spend ways of the Democrats and heralds in the pro-taxpayer ways of the Republicans.

The Seven Year Budget Reconciliation Act provides less spending, less taxation, and less government. It provides real welfare reform and it protects our Medicare system for today's and tomorrow's seniors. It strives to better manage our Medicaid system and it works toward strengthening families.

A balanced budget will lower the interest rates for all Americans by at least two percentage points and will thus allow all Americans to improve their standard of living.

Mr. Chairman, I am pleased to rise in support of a balanced budget plan, in support of fiscal responsibility, in support of tough choices, in support of keeping promises, and in support of H.R. 2491.

For years, Mr. Chairman, there has been something of a racket going on for some elected officials in the Nation's Capital to play games with the budget process. These officials would tell their constituents that they were for a balanced Federal budget but then they would turn around and vote against resolutions which would provide a constitutionally-imposed balanced budget.

When asked why they took such action, they would reply that they did not need a balanced budget amendment to make the tough choices.

However, when the time arrived to make those tough decisions, the same people would balk on their previously stated commitments. Rather than support efforts to reduced spending and taxation, past members of Congress have let our Federal deficit balloon up to a point to where a person could stamp the word ''GOODYEAR'' on it. Rather than support fiscal austerity, many of my colleagues have opted to promote initiatives which would saddle a newborn infant, circa 1995, with $187,000 in taxes to pay the interest on the national debt. Mr. Chairman, the way the Congress goes about its fiscal business much change.

Mr. Chairman, make no mistake — H.R. 2491 provides the innovative harbinger of change in American government that many citizens have been clamoring for years.

This reconciliation bill will reform Medicare to ensure its solvency well into the 21st century and give our parents the enhanced opportunity of health care and insurance choices they deserve.

H.R. 2491 will also provide Americans with much-needed tax relief and reform. This bill will reduce taxes by $245 billion over the next 7 years—a figure which would include a reduction in the capital gains tax, a $500-per-child tax credit and a repeal of President Clinton's confiscatory tax increase of 1993 while closing over $30 billion in corporate tax loopholes.

We will change our welfare system to ensure that no more of our children are forced to grow up in wretched squalor of the welfare state of 1995 America while providing help to the States to implement their own health care assistance program. Candidate Bill Clinton promised to ''end welfare as we know it'' in 1992, the Republicans are delivering on that promise.

We will also abolish, privatize or sell wasteful agencies and bureaucracies which have acted like a fiscal albatross around the neck of American taxpayer of the past two decades.

Will this reconciliation plan be totally painless? No, in fact there will be meritorious programs which will certainly be effected by this reconciliation bill. However, we have reached a point in our history where we need to show great care in our budget and fiscal priorities. We need to ask ourselves ''Do we need that agency or program or is there a better way?'' And, Mr. Chairman, that is the point of H.R. 2491. A vote for this bill is a vote to guarantee a future in which our children do not have to live under an inherited mountain of debt or within a governmental system which deems itself more important then the people it is supposed to serve. A vote for H.R. 2491 is a vote to make the hard choices and to find a better way for our children.

I consider this an extremely positive action which will benefit all constituents in my district as well as all Americans.

I encourage my colleagues to vote for H.R. 2491.

Mr. ALLARD. Mr. Chairman, today I am introducing legislation designed to reduce the regulatory burden on America's farmers and ranchers. This Congress has for too long cut commodity programs while not providing any regulatory relief. This year agriculture is once again taking spending reductions, but for a good purpose—balancing the budget and reducing the tax burden on rural America. But this year we are going to provide relief from rules regulations, and mandates that have grown while Government benefits have shrunk.

This legislation will continue to protect the environment, but will provide the necessary flexibility to meet environmental goals. This legislation will not rely upon one size fits all mandates that stifle a producers ability to wisely use the land to earn a living.

Specifically, in this legislation we will reform the current highly erodible land provisions created in the 1985 Food Security Act. While these provisions were well intended they have not manifested themselves in a farmer friendly manner. All of us who have districts that include rural areas have heard the stories of how this has become a law spinning out of control. In some areas practices required to reduce erosion on the land are more expensive than the land itself. The law itself did not require the Department to take into account local resource conditions, the economic or technical feasibility of practices they require. The legislation I am introducing today recognizes that these are realities in the real world. They should be requirements placed on the Department in the law and in the field guides NRCS employees use when assisting a farmer.

In this legislation I would also like to ease back on requirements because we are reducing Government benefits. Acres that are designated nonpayment will not be subject to Government mandates. When these programs were created there was a clear linkage, payments for compliance. However, in subsequent years when payments were reduced, regulations were not. This legislation would also create a new cost share program aimed at water quality. This program would assist livestock operations that are facing Federal and State mandates that are very expensive. This program would attempt to assist them in meeting those mandates and other practices to improve water quality. In order to pay for this program we are changing the Wetland Reserve Program to 15 year contracts from permanent easements.

I would also like to consolidate various cost share programs that have been authorized and appropriated for separately over the years. Most of these programs have been cut dramatically recently. It's my hope that by consolidating and refocusing we can have one program to support in appropriations. This will also reduce paperwork on those who apply. Instead of filling out two sets of application forms if they want money from two different programs, they will only have to fill out one form to receive assistance.

I would also like to consolidate the Natural Resource Conservation Service into the consolidated farm service agency. This move will streamline the policy making process and return NRCS to its main function, providing voluntary technical assistance to farmers.

As many will notice this legislation does not deal with swampbuster. It is not included because reaching agreement with interested parties has been difficult. I feel that repealing swampbuster is a better alternative than many of the ''reforms'' that have been placed before me. Between now and subcommittee markup I will continue to try and work with all interested parties. However, they need to understand that it must be a common sense proposal for me to take it seriously.

Finally, this legislation would protect the interests of private water users from the extortion of Federal agencies. This legislation outlines that Federal agencies cannot, as condition of permitting, require water users to give up a right in their property. It's my belief this will end a long standing controversy.

While all of these proposals are important to me, I am willing to work with everyone to make them better. They are my best attempts at reform. However, I am willing to listen and adopt better ideas.

Mr. KENNEDY of Rhode Island. Mr. Chairman, today the race to the bottom begins, and soon what it means to be an American will change. We have before us a plan from the other side of the aisle for balancing the budget.

Why do we want a balanced budget? What is intrinsically good about a balanced budget per se? It is important to note that there was a year when the budget was balanced. The year was 1930, and it marked the greatest depression this country has ever known.

So balancing the budget for the sake of balancing the budget is not the goal. We want a balanced budget because of what we hope it will do for us in terms of spurring our economy, growing our prosperity, and servicing the people rather than servicing the debt.

The approach that this balanced budget reconciliation act takes will send the country into the opposite direction from where a balanced budget should take the country. Instead of growing the economy and serving the people, the abrupt and vicious nature of this budget threatens these goals.

The scope of these cuts are so dramatic and the timetable so short, it begs the question of whether we want the positive results which we expect a balanced budget to bring us, or are we just happy with the politics of saying we have a balanced budget?

Just take one of many examples of where the reality of this so-called balanced budget belies their stated intent. They say they want to balance the budget in order to ease the interest payments that young people pay on the national debt, but to do so they propose to raise the interest payments on student loans so that the same young people will have to pay more to open the doors of opportunity.

When you look at where the cuts are coming from, there is nothing balanced about this budget. In fact, the poorest fifth of American families will shoulder half of the total cuts in benefit programs, and would receive no tax cut.

We face serious choices over what should be our priorities when we set out to bring our budget into balance.

Are we going to take a path that looks after the most vulnerable in society, that keeps promises, that invests in our future, that calls for shared sacrifice, and does not provide favors to people who already amply enjoy the rewards of this great country?

Or are we going to take a path that ignores the needs of senior citizens, children, and working families, that calls for sacrifice from the vulnerable while handing out tax cuts we can't afford to people who don't need them, that cripples our ability to prepare for tomorrow, that threatens the environment through underhanded deals, that takes the tax dollars of immigrants we have welcomed but denies them the very benefits their tax dollars have gone to support, and walks away from promises made to the American people?

This is a debate about numbers—cuts, slowed growth, caps, tax cuts, subsidies, and every other way we have to count money—but more important than any numbers are the principles at stake. American values should be reflected in the budget. But with the haste to only count cost in numerical terms, we've lost how to measure the cost on our society in human terms.

And that is where this bill fails. It fails seniors. It fails working families. It fails children. It fails the disabled. It fails the working poor. It fails students. It fails the environment. It fails our constituents. It fails to prepare America for tomorrow.

We have spoken about and debated the impact the Medicare provisions will have on senior citizens, and last week this Chamber voted to take a devastating $270 billion out of the Medicare Program, double premiums on seniors, and shred a program that has kept millions of seniors healthy and out of poverty since its inception in 1965.

Today we have before us the other half of their assault on health care. Faster than you can say block grant, the Republicans have killed a program that takes care of children when they are most vulnerable and seniors when they are most in need.

Now with their plan, all of the decisions and all of the responsibility will be handed over to the States without enough money to do the job. My own State of Rhode Island will suffer grievous harm under the Medicaid proposal. Over the next 7 years, Rhode Island will receive $1.6 billion less to take care of its poor children, mothers, and senior citizens. In the year 2002, Rhode Island will receive 42 percent less Medicaid assistance than it would under current law. Only two other States stand to be hit harder than Rhode Island.

Let's remember what Medicaid is all about and why it was created as a national program. Medicaid simply told people: You are citizens of the United States and have a common right to basic health care that you share with your fellow citizens. Now that common ground is lost. Soon it will not matter that you are an American. It will matter more what side of the State line you live on. Will you get preventive care? Will your nursing home require well-trained staff and forbid the use of restraints and drugging patients? Will your disabled child get the care to live a fulfilling life? These decisions will be made in 50 different States in 50 different ways.

In the DisUnited States created by this proposal, it will not matter that you are an American. We have taken an entitlement to basic care and replaced it with a lottery system. Well, everyone who plays the lottery knows—most people end up losing.

The 127,306 Rhode Islanders on Medicaid will lose under this lottery. It is possible that almost 22,000 Rhode Island children will lose coverage.

More than 7,000, or three-quarters of the more than 9,300 elderly Rhode Islanders in nursing homes, rely on the Medicaid Program to pay for their care. Rhode Island nursing homes will lose more than $400 million over the next 7 years under this plan.

This cannot be made up by my State, which already is experiencing financial difficulties. This is not a hole that seniors can fill. And to look to the next generation, as the Republicans propose through their repeal of the adult child exclusion, is to cut off our hope for the future before it has even begun to take shape.

The opposition likes to say this bill is about the future. But a look at the fine print shows that it will produce an America of less opportunity and less promise.

This bill will put an empty plate in front of school children at breakfast and lunch. We all know students can not learn if they are hungry, if they are distracted by wondering where their next decent meal is coming from.

Our children are a national resource. But with this bill we wash our hands of our commitment to feeding hungry children, tell States to pick up the slack, and don't give them enough money for even one more glass of milk when new poor children show up at the classroom door each morning too hungry to learn.

Students who make it to college are having the rug pulled out from under them. Due to more than $10 billion in student loan cuts, undergraduate students will see their loan payments increase as much as $700, and costs for graduate students will jump by as much as $2,500.

This will construct an insurmountable barrier for thousands of Rhode Island students who will have to give up on their dream of attending one of the fine institutions of higher education in Rhode Island. Higher education will sadly become a privilege only enjoyed by the very few.

Borrowers in the Parent Loans for Undergraduate Students will face a $5,000 increase in loan repayments.

In Rhode Island as many as 1,600 students will lose some or all of their Pell Grant benefits due to the cutbacks. The 6-month interest exemption grace period for all borrowers of student loans is ended.

And from the people who often trumpet the fact that this bill will lower interest rates, there is a hike on interest rates on student loans.

Is this how you help the next generation? Is this a budget about tomorrow? No. It is all about paying for $245 billion in tax breaks today, tax breaks that will overwhelmingly benefit those who are already doing very well.

Fifty-two percent of the benefits of the tax cut in this bill go to families making $100,000 or more. The top 1 percent, those earning $350,000 and over, will get a tax break of almost $20,000. This injustice, this blatant favoritism of the fortunate few, is compounded by the fact that those at the bottom will actually see their taxes rise.

Almost 37,000 working poor Rhode Islanders will see their taxes go up. They will shoulder the burden of a $5.1 million tax increase on working families in my State. Nothing reveals the motives of those who have crafted this budget more clearly than the war they have waged on the earned income tax credit.

Mr. Chairman, the damage caused by this bill is so great one hardly knows where to begin. I have highlighted some of the most egregious measures. But as I said before, this vote is not about numbers. It is about who we are as a nation. And that is why I am so dismayed.

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the Republican budget reconciliation legislation. The bill we have before us today represents a reckless restructuring of national priorities and advocates a shift of resources and commitment taken from working American families and granted to the most affluent segments of our society.

I have supported in the past and will continue to support responsible deficit reduction policies. Over the past two years, we have made steady progress in cutting the deficit with nearly $600 billion in deficit reduction over a five year schedule beginning in 1993. We passed the deficit reduction bill last session without a single Republican vote. As a result of these initiatives, the latest figures on Fiscal Year 1995 show that this is the first time since 1948 that the deficit has declined for three years in a row. The $164 billion deficit is much too high, but it's below the 1993 projected numbers on performance and nearly half the 1993 annual deficit.

This year, Republicans are trying to sell their budget plans, including this reconciliation bill and the various appropriations bills, in terms of deficit reduction, but when you look at their plans you see through the transparent goals the real effect of the Republican actions.

The Republican budget scheme and true goals are to pull back from proven policies for health care, housing, education and the environment, in order to give tax breaks to corporations and affluent Americans, increase defense spending, and give assorted benefits to special interests.

Policy makers who are serious about deficit reduction do not push a package which includes $245 billion in tax breaks, benefitting mainly the wealthiest of our society. Not only is it unwise to reduce revenues in this time of fiscal constraints, but it is unfair to dole out benefits to the well-heeled when everyone else in society is being told they must sacrifice. The Republicans continue to insist on a cut in the capital gains tax rate, a repeal of the alternative minimum tax for corporations, a limited child tax credit which is denied 34% of the kids, and many lavish tax breaks for upper-income individuals and corporations.

One of the most convincing pieces of evidence that shows the Republican claims of tax breaks for all Americans is all smoke and mirrors came out of the non-partisan Congressional Joint Committee on Taxation last week. The Joint Committee on Taxation incredibly reported that the effect of the Republican budget scheme actually will be a tax increase on workers earning less than $30,000 a year. This is principally because the Republican proposal drastically cuts the Earned Income Tax Credit [EITC], a working family benefit program that has been praised for its effectiveness in assisting low-income families and rewarding work and the denial of the child credit to low income families. By 2002, 172,000 Minnesota households would pay more taxes due to cuts in the Federal EITC existing law and the resulting cut in Minnesota's matching credit. With the EITC, participants receive a reduction in their Federal Income Tax liability or rebate in order to raise their income above the poverty line. The EITC gives working families living in poverty an alternative to entering the welfare system, an incentive to remain in the workforce, and assists them as they work to lift themselves out of poverty. These families should be encouraged to continue their efforts to achieve self-sufficiency and not be forced to choose between welfare and poverty.

One of the most shameful aspects of the reconciliation legislation is the treatment of Medicare and Medicaid. The new Republican majority in the House has made the Medicare and Medicaid programs its target for nearly 50 percent of its total spending cuts. Medicare is one of our nation's most successful programs. It was established over 30 years ago as a national commitment to assure seniors health care coverage. The Republican scheme is going to destroy seniors' health care security. With $270 billion in cuts, overall Medicare spending will be cut by a cumulative $6,795 per senior over the next seven years, meaning that in 2002 there will be $1,747 less in Medicare dollars per senior in that year itself! Republicans' excuse for slashing Medicare is to save the Medicare trust fund, but even the trustees of the Medicare trust fund strongly oppose the Republican plan because the extensive cuts go far beyond program reform or deficit reduction. The Republicans' proposed changes include raising premiums, cutting payments to providers and shifting seniors into untested forms of care. The bottom line is that seniors are going to pay more for less health care coverage.

Republicans are going to turn over complete control of the Medicaid program to the states, stripping away assurances that guarantee coverage to children, the elderly and the disabled. The Republican Medicaid scheme cuts the program by $170 billion in seven years, nearly a 20 percent reduction. Minnesota was one of the biggest losers in the restructuring of the House Medicaid formula and is projected to lose $3.4 billion over the next seven years under the House formula. This is a cut of over 21 percent! Illustrated as to the impact on people, these cuts would mean loss of health coverage for 80,000 Minnesota children, loss of eligibility for 5,900 nursing home residents and loss of health care coverage for over 100,000 Minnesotans by the end of the decade.

The Republicans proposed Medicaid plan eliminates nursing home regulations, taking us back to a bleak history of institutionalization without consumer protections from abuse and neglect. It eliminates provisions for home and community-based services. People with disabilities who are now able to remain at home with their families because of home and community-based care could have to enter costly institutions under this plan.

What a difference a year makes. Last fall 1994, the Congress was struggling to expand health care to those without Medicare, Medicaid or private coverage. However, in 1995 Congress has designs to renege on existing Medicare and Medicaid programs. Then there were 40 million uninsured Americans from working families but today the number has jumped by another 1.4 million people in the past year. Congress is not even addressing the issue of those without health care, but pulling back and punching holes in the American health care programs, Medicare and Medicaid, that help well over 60 million Americans. What a shame and what a disgrace that the modest programs that provide dignity to the elderly and the disabled, and compassion and empathy for those without means, in fact 18 million children, are being bled of their health benefits as the Republicans prioritize tax breaks for the wealthy ahead of health care for the needy.

These changes will affect every person in this Nation, whether indirectly through their health care costs increases due to the rising number of uninsured people, or directly if they have to deal with the cutbacks in their coverage or their parents', spouse's or child's coverage.

Medicare and Medicaid represent our nation at it's best. They represent the desire on the part of the American people to pull together and care for those who otherwise might not have enough resources to have access to health care. Instead of building upon this success, by responsibly managing Medicare and expanding health care coverage to all Americans, this Republican bill rolls back on the progress that has been made.

At the same time they are working to shred the health care safety net and destroy retirement security, Republicans are pushing a measure to jeopardize the hard-earned pensions of working Americans. The reconciliation bill includes a devious provision allowing corporations to de-fund and transfer money from pension funds to be used for any purpose the corporation may choose. According to the Pension Benefit Guaranty Corporation, the Republican fund raid potentially affects 22,000 pensions funds covering 11 million active workers and even 2 million retirees. This provision shows a blatant disregard for the lives and future livelihood of working Americans, not only because it jeopardizes their pensions, but because taxpayers in the final analysis could be required to step in and bail out companies' pension programs in the future.

On the environmental front, the reconciliation bill evokes the tradition of 19th century robber barons who exploited the west. From the bill, one would think the only good tree is a horizontal tree and that our nation has been endowed with vast and wonderful resources so a few could make a profit. This legislation amounts to a wholesale exploitation and degradation of America's natural resource legacy. We see the imprint of special interests, including the mining, timber, oil and gas industries, throughout the bill.

This legislation enshrines private park concessions in our National Parks with big profits in a power position over the public visitor and park rangers and stewards. Special interest giveaways are extensive: below cost timber sales, private control of rivers and waters, grazing fees below the already scandalously low prices, and public mineral rights giveaways to mining interests are all included in the bill. Masked as positive revenue gains, they put our national heritage on the auction block, with rigged bidding rules designed to benefit the special interests.

The decision to destroy forever the Arctic National Wildlife Refuge [ANWR] by permitting oil and gas exploration and drilling demonstrates the true spirit of the majority. The last great piece of American wilderness, the Arctic plain, ANWR is birthing home to the 160,000 member Porcupine Caribou herd. Grizzly and polar bears, arctic foxes and numerous other species conspicuous and inconspicuous abound. A clear majority of the American people oppose drilling for oil in ANWR, but the GOP leadership is not listening. Opening the refuge area to drilling will assure destruction of this pristine wilderness. The Republicans know better. The Arctic plain has been untouched for 40,000 years since the ice age. A unique Native American culture, the Gwich'in people, live by subsistence hunting and are absolutely dependent on the Porcupine Caribou herd.

Opening ANWR is a serious policy decision which should be openly debated on its merits, not as part of a reconciliation bill. Folding this measure into this bill is a sleight of hand way to circumvent the process and force this wholesale policy change upon the American public.

The reconciliation bill is also an inappropriate place to include provisions which essentially gut the Community Reinvestment Act [CRA], which attempts to insure bank credit in our cities. These provisions will exempt close to 90 percent of banks and thrifts from CRA coverage. The bill also provides a safe harbor for institutions with a satisfactory or higher rating (95 percent of the industry) and eliminates the sole enforcement mechanism in the CRA. Without using a dime of taxpayer funds, the CRA every year helps steer $6 billion of private funds into housing, small business an economic development in communities across this country. The CRA is an engine of economic development and social justice, and if it did not exist, we would need to invent it today. Furthermore, any measure which undercuts the CRA at least deserves a separate vote on the House floor.

The reconciliation bill includes several dubious provisions which will limit Americans' access to affordable housing. The RTC and FDIC affordable housing programs are eliminated. These are programs that obtain properties through bank and thrift failures and allow low- and moderate-income families, nonprofit housing groups, and public housing authorities to purchase these properties. These programs work; under the RTC affordable housing program, more than 104,000 dwellings have been sold at a value of $1.5 billion. Republicans also eliminate the Low Income Housing Tax Credit, which has been responsible for more than 100,000 units of affordable housing per year, $15 billion in economic activity and 90,000 jobs. Cutting this highly targeted and successful program will devastate affordable housing opportunities in the future. The ultimate losers with these GOP proposals are the prospective tenants and homeowners.

We have heard many people talk about balancing the budget so that the next generation will inherit a smaller financial burden. I find it difficult to believe, however, that included in a budget plan designed to give our children a better future, there are such drastic cuts in education programs, which are critical to providing and empowering our nation's youth with the tools and opportunities they require to succeed in this increasingly competitive world. A balanced budget will not mean much if America's children do not have the knowledge and skills they need to continue America's leadership role in the world economy.

The bill takes particular aim at higher education, which are the institutions that produce our engineers, doctors, scientists and other personnel critical to this nation's progress and competitiveness. Federal programs comprise nearly the whole higher education financial aid support system. This legislation eliminates the interest subsidy for students during their first six months after graduation at a time when college graduates are having trouble finding jobs and more and more parents are unable to help with these financial liabilities. The measure also eliminates the Direct Loan program, which has been successfully utilized by 24 educational institutions in Minnesota alone. Parents who help their children with the costs of acquiring a higher education will also see their financial burden increase as this measure increases the interest rate that parents pay on PLUS loans. In addition, a myriad of new fees and the increases in existing fees will add to the cost of higher education even further because lenders and educational institutions will without doubt pass these costs down to students in the form of increases in tuition and higher costs of borrowing funds. In point of fact $10 billion dollars will be cut from programs to help families achieve post secondary education programs.

We cannot and shouldn't steal from the very programs that allow our children to succeed in order to secure a smaller budget in their future. America's children are our greatest resource, and we must ensure that every child has the opportunity to receive the education they require and deserve to be successful in the world of work and our communities.

At the same time Republicans make all these cuts to people programs, defense spending spirals upward in the overall Republican budget plan for weapons and spending that the defense dept has not sought. Misaligned Republican priorities include $1.4 billion for B–2 stealth bombers, not requested by the Pentagon. Republicans also sink hundreds of millions into funding for the Seawolf submarine and Star Wars missile defense. The security of the United States cannot be provided for by simply increasing the number of planes, bombers, and submarines. Economic security, safety at work, and access to quality health care are also real elements of national security. How can we say the U.S. is more secure with nearly $7 billion more than the Pentagon requested, while Medicare is being cut; while funds are reduced for occupational safety for American workers; while educational programs are gutted? Can smart weapons replace smart soldiers and sailors? The answer is obvious—investment in people is essential to our security, whether in a military uniform or part of the private economic.

The question really is about the direction our nation should be heading and what values we want to cultivate to enhance America's future. This reconciliation bill reveals a dramatic change in national priorities under the GOP leadership. This new Republican majority values the bottom line above all else, in order to give tax breaks to the wealthy and placate special interest spending project, apparently the GOP message is claim to balance the budget and anything goes—but they are wrong—people care. The American people don't want an abandonment of principles and policies which allow the most vulnerable in our society to live with dignity and afford opportunity. They also do not want a redistribution of wealth which makes it more difficult for working American families to get ahead while giving special benefits to corporations and special interests. This bill is an affront to all who believe in the concept of community and the commitment of the Federal government to protect Americans' health, environment and economic security. I urge my colleagues to vote against this bill.

Mr. PAYNE of New Jersey. Mr. Speaker, I rise in strong opposition to H.R. 2491. I am particularly disappointed about the impact this legislation has on the Earned Income Tax Credit. Under this measure the Earned Income Tax Credit will be cut by $23 billion. This legislation will have a very negative impact on the State of New Jersey. Provided only to those who work, the Earned Income Tax Credit is a valuable tool in encouraging work over welfare. In my State of New Jersey the Earned Income Tax Credit helps 513,808 low-income workers and their families in their struggle to stay afloat in our society. That translates into 13.1 percent of all New Jersey taxpayers. In the past, this tax credit has received bipartisan acclaim under the Presidencies of Ronald Reagan and George Bush. I find it perplexing that despite the success of the tax credit, it would be slashed under this current proposal, thereby increasing taxes on millions of working Americans.

I find it ironic that while my colleagues on the other side of the aisle talk about the need

for welfare reform and personal responsibility, they are willing to decimate the program that helps people rise from dependency. The Earned Income Tax Credit encourages families to move from welfare to work by making work profitable. The tax credit rewards employment for working families, so parents who work full-time do not have to raise their children in poverty—and families with modest means do not suffer from eroding incomes. The Earned Income Tax Credit is a nonbureaucratic way to encourage work over welfare. There are no middlemen or service providers. There are no long lines at Government offices. The tax refund is provided by the IRS directly to the working families. I ask my colleagues who support this measure and have low- and moderate-income families in their districts to explain why it is necessary to slash a tax credit to low- and moderate-income families whose income has deteriorated since 1979. Payroll taxes increased five times between 1983 and 1990, while in 1996 the real value of the minimum wage will decline to its lowest real value in 40 years. The poverty rate for working families with children grew by nearly half from 1979 to 1993. The bottom 40 percent of American families, by income—those earning less than $30,000 in 1993—made 10 percent less in real terms in 1993 than in 1979.

In light of these grim statistics, I would like to know how my colleagues on the other side of the aisle are going to explain to the American people the fact that they are prepared to cut millions of dollars away from poor, working families, then turn around and provide a tax cut for the wealthy. I cannot begin to understand how many of my colleagues justify this type of action especially in light of that fact that the income gap between wealthy and nonwealthy Americans is at record levels.

In addition, the budget reconciliation bill before us today punishes poor children by eliminating key child nutrition programs, including the highly successful WIC Program—women, infants, and children. It repeals school lunch and school breakfast programs and denies benefits to legal immigrants who have faithfully complied with the law and gone through all the proper channels to enter our country.

Our Nation has always valued education as the ticket to achieving the American dream. This bill attacks student loan programs, cutting a total of over $10 billion over 7 years. Is it fair to tell our young people that they will just have to abandon the dream that we all shared?

As chairman of the Congressional Black Caucus, I am outraged that the Republican Congress has once again reversed the clock, turning back progress by eliminating the Minority Development Agency which coordinates minority business and development programs and gives a fair chance to those who were shut out of the system for years.

Our seniors are hurt by the reductions in section 8 housing; veterans who served our Nation are now told that they are part of the budget problem.

Once again, Federal employees and retirees are given harsh and unfair treatment. Those who have chosen careers in public service are now being told they will have to pay more and get less.

This is a hidden tax whether the authors of this budget want to admit it or not.

This budget will be disastrous for the working people of our Nation, for children, for students, and for seniors. I urge my colleagues to oppose H.R. 2491.

Mr. UPTON. Mr. Chairman, I have had extensive discussions with the chairman of the House Commerce Committee concerning the fact that teaching hospitals and academic medical centers have traditionally had higher costs. This is due to the special mission that these institutions have providing specialty patient care, conducting clinical research, and training new physicians to treat our poor.

After these discussions, I have been assured that it should be the policy of the States, when creating their new MediGrant programs, to take it into account. Obviously, it is in the best interest of this Nation's health care to ensure top quality doctors and research facilities, along with continuing specialty care. This can be done if the States recognize that additional reimbursements will be required to these types of facilities.

Mr. HOYER. Mr. Chairman, I rise in strong opposition to this omnibus bill that I believe is a major step backward for our Nation.

I am committed to insuring our Nation's fiscal integrity. Our obligation to our future and our children and to their children demands decisive and decidedly different action to affect a disciplined conduct of the fiscal business of this country.

But this Republican package is not the answer. It is an attack on the middle class and poor Americans.

I supported the balanced budget amendment to the Constitution. I voted for the Stenholm budget which would have achieved a surplus by the year 2002. I will also support the alternative reconciliation developed by Mr. ORTON, Mr. STENHOLM, Mr. PETERSON, Mr. SABO, and other Democrats. In a responsible and fair way, their alternative puts us on a glidepath to a balanced budget by 2002.

In my view Thomas Jefferson was right when he said:

> The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves.

Reducing the deficit is of such importance that I do not believe we should approve tax cuts until we get our fiscal house in order. In my view, we must balance the budget first, then consider tax reductions.

The Republicans are steadfast in their efforts to give tax breaks to the wealthy. That is why the provisions in this bill are so draconian and is part of the reason why this bill is so unacceptable compared to the Orton-Peterson-Stenholm-Sabo substitute.

One example of the Republican bill's attack on the middle class are its provisions on Federal employees. The measure saves more than $10 billion from increased taxes on Federal employees and other provisions that will dramatically decrease their benefit packages.

The Republican leadership, despite loud and persistent rhetoric about reform of Congressional procedures, put this package together with few hearings and no markup by the Government Reform and Oversight Committee.

Mr. Chairman, I know of no precedent for making this magnitude of changes in Federal benefits without full and open discussion of the issue. As my colleagues will recall, the creation of FERS, the Federal Employees Retirement System, was done in the mid-1980's at the conclusion of nearly 2 years of bipartisan hearings with dozens of witnesses.

The Democrats and Republicans charged with review of this issue do not support what is in this bill. A vote was not allowed in the Government Reform and Oversight Committee or its Civil Service Subcommittee because the majority of Members on those committees do not support these provisions.

Federal workers have already contributed more than their share to efforts to balance our Federal budget—about $200 billion over the last 15 years. We must stop this erosion of pay and benefits or we will witness a deterioration in the quality of young men and women that we attract to and retain in Federal service.

I am pleased that the provision to require Federal employees to pay fair market value for parking have been dropped. That was the right thing to do. What remains, however, is still unfair and unwarranted.

These proposals are representative of this bill's impact on middle and lower income citizens. It is an attack on those groups and it should be rejected.

In addition to dramatic reductions in the Earned Income Tax Credit, this bill makes dramatic cuts in Medicare and Medicaid—over $450 billion in health care cuts.

Under the Kasich proposal, Maryland will lose $2.5 billion of Medicaid funding that it uses to provide medical care to poor children, the disabled, and seniors in nursing homes.

The result of these provisions, if adopted, is clear. Maryland would be forced to raise State income taxes just to retain very basic benefits. Other benefits, for adults and children, would simply have to be abandoned.

More than 60,000 Maryland children would be forced to go without health care coverage—without immunizations, health screenings, and medical treatments that will keep them healthy and ready to go to school.

Mr. Chairman, when people voted for change last November, they did not vote to bankrupt families. They did not vote to leave children languishing in foster care. They did not vote to throw children off Medicaid. That would not be responsible.

Children and their families would also suffer from the welfare provision of the Kasich bill.

We cannot promote our national economic security if taxpayers are required to support able bodied Americans who simply choose not to work. Even so, our economic future is lost if we fail to provide for the Nation's children.

The Republican proposals for welfare reform are weak on work and tough on kids—tougher on kids than they are on the deadbeat dads who walked out on them.

There is a better way to end welfare as we know it and to create a system that puts parents to work and protects the well-being of the kids who depend upon them. The welfare provisions in the Democratic substitute, which 204 Members of this body supported, represent true reform. They require those who can work, to work.

These are just a few examples of what I believe our priorities must be. Not tax cuts in the face of deficits, but fiscally responsible policies that serve the needs of all Americans, promote America's economy, and move us to a balanced budget in the year 2002.

The alternative is a responsible approach and a real approach. While I do not agree with

every provision, I find it an acceptable alternative to solidify America's economic future.

Our deficit threatens our health as a nation and our ability to be competitive in our global economy. The Orton-Peterson-Stenholm-Sabo alternative would balance the budget and get us back on track.

The Gingrich/Kasich bill uses a meat ax and leaves the patient its trying to cure badly scarred. The substitute uses a scalpal and leaves the patient whole and cured.

Mr. SERRANO. Mr. Chairman, I rise in strong opposition to the budget reconciliation bill that is before the House this week.

I hardly know where to start in denouncing this misguided bill, but several themes are apparent.

It makes vast, untested changes in the way our country does business.

It abandons federal commitments to the most vulnerable among us—children, families, the elderly, immigrants, the working poor, the sick—and makes many of them the subjects of State-run experiments in providing health care, education, jobs, and other services.

It needlessly cuts taxes on corporations and wealthy investors while it raises taxes on more than half the population—the half with incomes under $30,000 a year.

It dumps huge new responsibilities on the States but gives them little time to plan, establish new programs and bureaucracies, or hire and train State employees.

It makes changes in programs across the Federal Government; while some may be useful, many are probably not or they wouldn't have to be rammed through the House in this manner.

It tramples on the procedures the House has established to permit full and open debate on important issues by inserting provisions never considered by a committee or actually rejected by a committee.

Of course, the bill has been a moving target as the Republican leadership cut deal after deal to buy the votes they need to pass this massive nightmare of a bill.

The real targets and beneficiaries of this bill are shockingly clear from a couple of the tax provisions. The bill provides for $245 billion in tax cuts that go mostly to wealthy investors and corporations. According to the Office of Management and Budget, the top 1 percent of families, those with annual incomes over $350,000, will see their taxes cut by $14,050 per year.

The $500 tax credit per child would go to families with annual incomes up to $200,000. But the credit is nonrefundable, which means that a family of four would receive a reduced credit or no credit at all until its annual income reached about $30,000.

At the same time, the Republicans propose to save $23 Billion from the Earned Income Tax Credit [EITC], which offsets payroll taxes and the failure of the minimum wage to keep pace with inflation, permitting low-income working families to keep more of their earned income, or, if their income is very low, providing a modest income supplement.

The result of these two provisions—the nonrefundable per child tax credit and the EITC cuts—is that fully half of America's working families, those with annual incomes below $30,000, face increases in their taxes.

The EITC cuts will have a particularly serious impact on New Yorkers. New York has a State EITC, which is tied to the Federal credit. Nearly one million low- and moderate-income working families will see increases in their State taxes as well as their Federal taxes from the cuts in budget reconciliation.

We discussed the Republicans' huge and dangerous cuts to Medicare last week, although without enough time for debate or opportunity for amendments to improve that deeply flawed bill. It came up last week, of course, because the Republicans hoped to fool the American people into thinking there is no connection between the $270 Billion in Medicare cuts and the $245 Billion in tax cuts. But here it is again, as title XV of this bill.

Another reason that considering Medicare last week was a mistake is that it is so closely related to Medicaid. Changes in one program affect the other in ways that have not, in my view, been sufficiently studied. Moreover, cuts in both programs, taken together, will have devastating effects on our health care system, patients and providers alike.

Mr. Chairman, on Friday, I met with a group of providers in my South Bronx district to discuss the cuts' impacts on their facilities and hear their views. One participant, representing the Daughters of Jacob Geriatric Center informed us that between 90 percent and 95 percent of the center's residents are supported by the Federal health programs and that 75 percent of its budget goes to labor costs. Clearly, cuts in Medicare and Medicaid will have serious, harmful effects on the health and well-being of the seniors at the center.

Apart from the cuts in Medicaid funding, provisions ending the entitlement of eligible individuals to coverage and converting Medicaid to a shrinking block grant are alarming. Medicaid is a national program precisely because some States were unwilling or unable to meet the health care needs of the poor. To assume that every State will have the will and the resources to meet these needs, especially as Federal contributions decline so sharply, is dangerous wishful thinking.

On Tuesday, my constituent, David Tuzo spoke about the importance of Medicaid at a rally on the Capitol Grounds. David, who is HIV-positive, has four sons, three of whom are foster children he has saved from abuse and abandonment. In closing his remarks, he said, ''I guess there are two reasons my health is so good and I feel so optimistic: my life with my kids gives me hope and Medicaid is my lifeline. Without Medicaid, I'd lose my kids and my life.'' But there is no guarantee that the medical services David receives now with Medicaid coverage will continue to be covered, or even that he and his sons will continue to be eligible.

Welfare reform is another empty, to be added title of this bill, although conferees are now meeting to resolve differences between the versions of H.R. 4 that passed the Senate and House. But I think anything born of H.R. 4 ought to be rejected, not hidden away in this huge bill.

My outrage has not diminished since the House voted to take away the Federal guarantee that some modest assistance will be available for those children and families whose desperate circumstances make them eligible. That is not just bad public policy, it is immoral.

I also continue to be angry at the ongoing immigrant-bashing that began with H.R. 4, which would deny public assistance on the basis of legal immigration status. We know that immigrants don't come here for public assistance; they come to join family members and to provide a better life for their children. They work, they pay taxes, they participate in community life, and they play by the rules. Why should they be targeted, except to save money?

Mr. Chairman, there is a great deal more to condemn about this bill, but I am nearly out of time. Let me just mention a few more outrages.

The bill repeals the alternative minimum tax on corporations, letting corporations get away with paying no Federal income taxes at all.

The bill permits businesses to raid their pension funds of as much as $40 billion, threatening the retirement security of millions of current workers.

The bill amends the Community Reinvestment Act to make it easier for banks to avoid investing and lending in communities from which they take deposits and to make it harder for community groups to challenge a bank's CRA compliance.

The bill terminates the RTC and FDIC affordable housing programs and repeals the low-income housing tax credit, reducing the already small stock of affordable housing for low- and moderate-income families at a time of increasing homelessness.

The bill eliminates the direct loan program and the graduation grace period, putting a college education, which is the most effective vehicle for success, beyond the reach of most people.

The bill incorporates the provisions of H.R. 927, the Cuban Liberty and Democratic Solidarity Act, an extreme bill that would enhance policies that have never worked, increase the suffering of the Cuban people, and adversely affect United States businesses, the United States court system, and our relations with our closest allies.

The bill ignores reforms made just 2 years ago to the tax exemption of certain income from investments in U.S. possessions such as Puerto Rico, known as section 936, and, instead, phases it out over 10 years. I believe section 936 should be left alone, but if it must be changed there are better ways.

Mr. Chairman, all thinking Members agree that we must bring the Federal deficit under control, if not actually balance the budget.

There is wider disagreement over the number of years it should take. I personally think 7 years is too short and requires the kind of mindless slashing of spending the Republicans propose rather than thoughtful adjustments, but the Republicans insist on 7 years.

Cutting taxes before the deficit is under control makes the required spending cuts that much greater.

And the specific cuts chosen, aimed mostly at low- and middle-income families, and the refusal to curb corporate welfare, add to the outrages in this bill.

Mr. Chairman, I urge my colleagues to reject this terrible bill.

Mr. NEAL. Mr. Chairman, I join with Representatives RANGEL, JOHNSON, and KENNELLY to express my concerns about the tax changes to section 936 included in budget reconciliation legislation.

The bill recognizes that section 936 cannot remain in effect indefinitely and must be terminated within a reasonable time. However, the termination of section 936 in this legislation would eliminate totally all Federal incentives for new job creation in Puerto Rico. This provision provides protection for the companies

doing business in Puerto Rico, but not for the working people of Puerto Rico.

The Governor of Puerto Rico has suggested an economic incentive program that would replace section 936 with a wage credit provision to help spur job creation in Puerto Rico. The provision included in budget reconciliation was not debated thoroughly and the Governor did not have time to submit an alternative proposal. The Conference Committee on budget reconciliation should adopt the Governor's proposal or some other reasonable replacement program to help with investment and job creation in Puerto Rico.

I urge the House to thoroughly review this issue.

Mr. WICKER. Mr. Chairman, I am pleased to share with my colleagues the following remarks from October 23, 1995 by R. Bruce Josten, Senior Vice President for the Chamber of Commerce of the United States of America.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,

Washington, DC, October 23, 1995

MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: In the next few days, you will be voting on H.R. 2491, the ''Seven-Year Balanced Budget Reconciliation Act of 1995,'' this year's omnibus balanced budget reconciliation bill. This historic measure will lead to a balanced federal budget within the next seven years, cut taxes for American families and businesses, streamline welfare systems and provide for stronger economic growth. The U.S. Chamber of Commerce—the world's largest business federation, representing 215,000 businesses, 3,000 state and local Chambers of Commerce, 1,200 trade and professional associations, and 73 American Chambers of Commerce abroad—urges you to vote YES on the reconciliation bill.

H.R. 2491 offers us the chance to switch tracks, from the usual tax-and-spend mentality to an emphasis on less government, lower taxes, and increased economic growth. Eliminating the deficit in seven years will lower interest rates, boost savings and investment, increase productivity growth, and lead to more and better jobs and a higher standard of living. The reconciliation bill also takes a courageous step in addressing runaway entitlement spending while ensuring more effective services to those in need.

The tax cuts contained in the reconciliation bill provide incentives for job creation and return some of the taxpayer's earnings to where they rightfully belong—the taxpayers's pocket. As part of a comprehensive balanced budget package, the tax cuts make the process of eliminating the deficit easier on the economy at the same time they make achievement of the goal more likely.

The reconciliation bill before you deserves your support. The business community will be closely following the outcome of this vote, which the U.S. Chamber will count as a key vote in its annual ''How They Voted'' tabulation. Passage of the reconciliation bill is crucial to re-establishing the historic trust between the government and the governed. The U.S. Chamber membership urges you to vote YES on H.R. 2491.

Sincerely,

R. BRUCE JOSTEN.

BALANCING THE FEDERAL BUDGET—THE NATION'S GREATEST PRIORITY

With all the hoopla over Medicare, Medicaid, welfare reform, and tax cuts it is easy to lose sight of the forest for the trees. Therefore, it is important now to reiterate and reemphasize where we are headed. The single overarching goal of this legislation is to put the economy on a new track by balancing the budget through spending restraint, reducing taxes, and getting the government out of the everyday lives of its citizens. The message is simple: Balance the Budget Now!!!

Why is it so important to balance the budget? Balancing the budget is the single most important act that congress can take to boost savings in this country. This in turn will lead to lower interest rates, higher investment, greater productivity growth, and a higher standard of living. Achieving this balance will also increase our competitiveness in international markets.

In a June 1995 U.S. Chamber survey, more than 96 percent of those responding would like to have the federal budget balanced in seven years

There is no doubt that balancing the budget is a clear winner for the economy—but it is more than an economic issue; it is an issue of generational fairness. Deficits not only burden future generations with higher taxes required to service the debt but also deny future generations the basic right to make their own decisions and choose their own destiny.

While it is true that balancing the budget involves some short-run pain, the long-run cost of failure to balance the budget is the virtual impoverishment of America's future. Unless we make some tough decisions to reduce spending and eliminate the deficit, we will soon find ourselves in a position of bankruptcy, and totally ill-equipped to provide for the retirement needs of the baby-boom generation. Without immediate program changes, by 2012 entitlement spending and interest payments on the debt will consume all tax revenue. If unreformed, Medicare will be insolvent in seven years.

The balanced budget reconciliation package also includes a tax cut for America's households and businesses. By improving the incentives for individuals to work and businesses to create new jobs, the proposed tax cuts will spur economic growth. These beneficial effects not only will mitigate the short-run fiscal drag from the spending restraint but also will generate tax receipts to help offset the revenue loss from the tax cuts themselves.

Eliminating the deficit and balancing the budget is sound public policy. It will benefit individuals of all ages and socio-economics groups, it will encourage savings and investments and foster job growth, and ultimately will place America in a sound financial position to deal with the complexities of its aging population. Failure to do so is simply irresponsible.

BALANCED BUDGET RECONCILIATION BILL—MYTHS VS. FACTS

Myth: Balancing the budget is going to harm the economy.

Fact: The congressional Budget Office has estimated that balancing the budget within five to ten years provides enough time for the economy to adjust without providing undue stress to economic growth. By producing a plan that splits the difference—balancing the budget in seven years—the Republicans place the economy on as gentle a transition path as possible that still preserves the plan's credibility. That's important because a vote of no confidence in the financial markets would send interest rates up, which could unravel the entire plan by slowing the economy and forcing the government to spend more on its debt service.

Myth: The Republicans are slashing programs for the poor and the elderly.

Fact: Actually, total government spending over the next seven years under the Republican plan would continue to grow, averaging 3.0% per year. Social Security spending is slated to rise about 5% per year, and Medicare growth will average 6.4%.

Myth: It's irresponsible to cut taxes at the same time we're trying to balance the federal budget.

Fact: The tax-cut package will help achieve a balanced budget by improving the incentives for Americans to work, save and invest. These activities will generate private-sector growth that will offset the economic drag caused by reduced government spending.

Myth: The Republicans are slashing Medicare.

Fact: The Republican plan for Medicare calls for program expenditures to rise an average of 6.4% per year for the next seven years—more than twice the rate of inflation. Medicare spending over the past five years has grown at the unsustainable average annual rate of 10.4% over the past five years. Critics of the Republican plan usually fail to note that expenditures per beneficiary are projected to climb from $4,800 today to $6,700 by 2002 under the Republican proposal.

Myth: The Republican tax cuts are for the wealthy.

Fact: Most of the tax relief goes to the American family as the child tax credit. Under the Senate Finance Committee tax cut bill, 62 percent of tax reduction is accounted for by the child tax credit, which has income limits (the full amount is available to single filers earning $75,000 or less and to married joint filers earning $110,000 or less). Only about one-sixth of the tax package's $245 billion in tax relief goes for reductions in capital gains tax.

Myth: The cuts in Medicare spending are funding the tax cut.

Fact: These are two separate issues. Tax cuts or not, balanced budget or not—the Medicare trust fund will be bankrupt by 2002, according to the best estimates of the Medicare Trustees (four of the six trustees are Clinton appointees). Action on Medicare is required now. The problem can only truly be solved by addressing the explosive growth of Medicare, which has averaged 10.5 percent per year over the past five years. Moreover, because any changes to Medicare Part A will accrue directly to the Medicare Hospital Insurance Trust Fund, the savings cannot be used to provide for tax cuts.

Myth: President Clinton's plan to balance the budget in ten years offers a preferred path to fiscal balance.

Fact: Actually, the president's path doesn't lead anywhere. According to the CBO, the federal deficits under the Administration's June 1995 proposal remain lodged around the $200 billion level for the next decade. The Administrations rosier underlying economic assumptions play a big role in getting the deficit to zero, but when the CBO figures are used instead, the deficit shows little improvement. CBO's scoring of the Republican plan, on the other hand, shows balance. Which numbers should be used? The president answered this question himself, when in February 1993 he argued that lawmakers should stick to one set of economic assumptions—CBO's—so that ''the American people will think we're shooting straight with them.''

MEDICARE REFORM—THE RIGHT SOLUTION

Medicare reform is at the crux of the balanced budget battle. Medicare—the national health insurance program for seniors—will run out of money in seven years, according to The Board of Trustees. Spending on Medicare and other entitlements threatens to crowd out all other budget priorities and increase the budget deficit.

Previous approaches to Medicare reform have failed to slow Medicare's growth. Worse, these approaches have increased the burden on businesses and their employees through higher payroll taxes and higher insurance premiums.

Since 1970, Congress has raised payroll taxes over 20 times and the Medicare Trustees 1995 Report pointed out that payroll

taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small-and medium-sized businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

The House and Senate Majority has proposed market-oriented alternatives to traditional Medicare reform, an approach that modernizes the 30-year-old Medicare program by increasing competition while restraining the growth in spending. Key elements include:

New choices for Medicare beneficiaries. Beneficiaries will have the right to choose traditional Medicare, as well as the right to choose from a range of private health plan options including managed care and medical savings accounts. These options will provide beneficiaries access to expanded benefits—such as prescription drugs, preventative care, vision and hearing care.

Restrained growth in Medicare spending. Increases in Medicare spending are inevitable, given the growing Medicare population and the advance of medical technology. However, controlling the rate at which Medicare spending increases is as important to our nation's future financial health as Medicare itself is to seniors' health care. Introducing competition to Medicare through beneficiary choice of health plans will help control costs and allocate resources more fairly and efficiently than Washington bureaucrats.

Accountability. The Republican plan allows seniors to take responsibility for making their own health care decisions. Instead of relying on a bureaucratic, one-size-fits-all approach, seniors will decide which health plans are best for them. Doctors and hospitals are also held accountable. The bill rewards beneficiaries who report incidences of waste, fraud and abuse, and strengthens penalties for anyone who defrauds Medicare.

By passing this legislation Congress will have taken timely, critical action that will avert the program's bankruptcy and preserve and protect it for current recipients and future generations.

MEDICARE REFORM—MYTHS VS. FACTS

Myth: The House and Senate Republican Medicare reform plans will cut $270 billion from Medicare in order to finance a tax cut for the wealthy.

Fact: The Medicare Trustees' 1995 Annual Report urged Congress to take ''prompt and decisive action'' to address the solvency of the Medicare Part A (hospital insurance) Trust Fund and the continued growth of Medicare Part B (supplemental medical insurance).

The House and Senate Majority has proposed market-oriented alternatives to traditional Medicare reform, an approach that modernizes the 30-year-old Medicare program by increasing competition while restraining the growth in spending. Under the Republican plan, spending per beneficiary will still increase 40% by 2002 ($4,800 to $6,700).

Tax cuts provided for in the budget resolution were considered and passed independent of Medicare. Whether or not taxes are cut, Medicare will still go broke in 2002.

Myth: It's not fair for Congress to take away benefits from seniors who have faithfully paid into the system.

Fact: The average Medicare beneficiaries receive far more than they put in. The average two-earner couple receives $117,200 more in benefits than it contributes to the program. The average singe-earner couple receives $126,700 more.

By encouraging competition among private health plans based on quality and innovation, the Republican plan may lead to increased benefits.

Myth: The business community is a latecomer to the Medicare debate.

Fact: Medicare's influence is felt throughout the business community—from payroll taxes paid to finance the system to insurance premiums inflated by consistent shortfalls in Medicare reimbursements to providers who in turn shift the cost to private health plans.

Myth: Medicare is in trouble because doctors and hospitals charge too much. The Republican plan fails to address this problem.

Fact: Solving the Medicare crisis will require the participation of all—doctors, hospitals, seniors and other taxpayers—particularly the business community. Just as no one factor led to the Medicare crisis, a single-minded focus on providers won't get us out. Further, cost controls have failed miserably whenever they have been tried—particulary in the context of health care.

WELFARE REFORM—A CALL FOR ACTION

Efforts to reform the nation's welfare system continue to gain momentum and could be included in the budget bill. Other legislation supported by the U.S. Chamber of Commerce has been passed by both the House and Senate. A final compromise will be sent to President Clinton for his signature once differences between the bills are resolved by a House-Senate conference committee.

Overhaul of the welfare program is critical to control spending costs and provide effective, streamlined services to those who truly warrant such assistance. To achieve this end, the bills eliminate the federal guarantee of benefits for all eligible Americans by turning responsibility for welfare programs to the states in the form of block grants. A substantial reduction in federal spending is anticipated—from $65 to $100 billion over seven years. There is much commonality between the House and Senate proposals:

Both bills replace federal welfare programs with lump-sum payments to the states for cash assistance to the poor (AFDC) and child care. (The House bill also includes family nutrition, Supplemental Security Income, and school lunches.) Block grants to the states are capped; no state match is required.

The legislation places a limit of five years on the duration of time that individuals may receive welfare benefits. States have the option of lowering the limit to two years.

States must move half of all welfare recipients into work by either 2003 (House bill) or 2000 (Senate bill). Both bills repeal the JOBS program.

But key differences with respect to illegitimacy, ''family caps,'' and aid to immigrants remain. The House bill prohibits states from providing benefits to women who have additional children while on welfare, teenagers who have babies of out of wedlock, and most non-U.S. citizens. The Senate bill does not contain these prohibitions.

Business has a strong stake in the welfare reform issue. If people are to exit the welfare rolls, they must be prepared and able to find and keep a job. In response, many welfare reformers look to the private sector as the primary source of job creation.

Chamber members understand the need to be centrally involved in the welfare reform debate. In a survey to construct the 1995–1996 National Business Agenda, welfare reform was ranked as the second highest priority (behind unfunded mandates). The June, 1995 ''Where I Stand'' *Nation's Business* questionnaire on welfare generated 6,319 responses, the fourth-highest return ever.

In November, 1994, the Chamber became the first business organization to adopt policy on welfare reform. The Chamber supports immediate and intensive job placement services for welfare recipients; a time limit on welfare benefits; work requirements; and incentives for businesses to hire welfare recipients. Above all, it is imperative that former welfare recipients possess the knowledge and skills to succeed in the modern workplace.

WELFARE REFORM—MYTHS VS. FACTS

Myth: Business will not hire welfare recipients.

Fact: Private companies will hire welfare recipients, but practical incentives need to be offered. Examples include flexible wage scales, relief from certain labor law requirements, and/or tax incentives. Equally important is ensuring that recipients possess the skills and attitudes to succeed in today's workplace.

Myth: The legislation recklessly endangers the well-being of the poorest children and families.

Fact: America's welfare system eats up billions of dollars of taxpayers' money annually. Without incentives like time limits and work requirements, many persons will continue to make an easy living off welfare. Reliance on public assistance must to an end.

Myth: Moving to a block grant system will cripple state budgets and lead to a ''mish-mash'' of state welfare programs. The federal government needs to maintain authority.

Fact: Block grants deserve strong consideration; they will help maximize state and local flexibility and allow states to design welfare programs that best reflect their public assistance needs. Moreover, block grants will put an end to unfunded mandates and burdensome regulations associated with federal welfare programs.

Myth: Increasing the minimum wage is the only way to ensure that welfare mothers can live on entry-level earnings. Otherwise, the work requirement will never be effective.

Fact: Quite the contrary. An increase in the minimum wage would cost many Americans their jobs and deter employers from hiring welfare recipients. The key to increased job opportunities is an abolishment of the minimum wage and allowing the marketplace to work.

A Congressional Budget Office study has shown that 70 percent of workers who entered the workforce at $5 an hour or less were still employed after one year. Forty-five had received wage increases of 20 percent or more.

Mr. RAMSTAD. Mr. Chairman, I want to express my deep concern about the 4.3 cent per gallon aviation fuel tax which was imposed in the massive 1993 tax increase signed into law by President Clinton.

While I would have preferred a full repeal of this damaging tax, I am pleased the reconciliation bill before the House today includes a provision to extend the current exemption from this tax for 2 years.

But I am deeply concerned the other body has only chosen to extend the exemption for 17 months, and I strongly urge my colleagues on the reconciliation conference committee to support the full 2-year exemption.

Without the certainty of a long exemption, it is impossible for the airline industry to make the long-term decisions needed to keep this critical sector of our economy healthy.

The airline industry is already under an enormous tax burden. Federal taxes imposed on the airlines include a 10 percent excise tax on airline tickets, a 6.25 percent excise tax on cargo shipments, a $6 per passenger international departure tax, special taxes to support customs, immigration, and agricultural inspection services, and a $3 passenger facilitation charge at many major airports. These

taxes impose costs of $6.7 billion a year on an industry with total revenues of $64 billion a year.

Mr. Chairman, I urge continued commitment to the 2-year exemption during conference committee consideration of this provision.

Mr. BARCIA. Mr. Chairman, I came here following the 1992 election to do on the Federal level what I have done for my entire time in public service: serve the good people who elected me, make tough choices to secure a sound future, and make tough choices to guarantee a fair treatment for the people I represent. I came here to bring the discipline of a balanced budget, just like the one I followed as a member of the Michigan State Legislature, to Washington.

Since coming here, I have supported the balance budget amendment, and the line-item veto. I have voted for many spending cuts—over $900 billion in my first term.

Today, I find myself facing three choices. First, I can vote for the Republican budget plan which according to a recent New York Times poll only 12 percent of people believe will balance the budget, and which guts Medicare and other programs important to a significant number of people that I represent.

Secondly, I can support the Conservative Coalition proposal which responsibly lessens the impact on Medicare recipients by $100 billion, and which delays tax cuts until the budget is balanced, in line with what 60 percent of Americans believe should be the case.

Thirdly, I can find fault with both proposals, vote for neither, and accept responsibility for perpetuating budget deficits.

Clearly, this last alternative is unacceptable. The first option, slashing spending haphazardly like scissor-fingered Freddie in another ''Nightmare on Elm Street'' movie, is breaking faith with the many people in my district who believe that while spending should be cut, we should not take assistance away from those least able to absorb those losses. We should not expect seniors who have paid taxes all their lives to pay even more by losing benefits they cannot afford to lose.

As a result, I will vote for the Conservative Coalition proposal. It balances the budget in 7 years. It concentrates in eliminating waste, fraud, and abuse. It doesn't punish seniors like the Republican alternative does. It brings the debate from whether or not we should balance the budget to how do we balance the budget.

I came here to balance the budget. My vote today does just that.

Mr. JOHNSON of South Dakota. Mr. Chairman, we can balance the Federal budget without attacking education, the elderly, veterans and rural America—and for that reason, I must rise to express my strong opposition to H.R. 2491, the Omnibus Budget Reconciliation bill. I must also express my opposition to the parliamentary rules under which this legislation is being considered. Under the rule passed by this House, no amendments to the reconciliation bill will be allowed other than for one alternative which is a better but still flawed bill. In this way, the House is being asked to vote on drastic and unecessary reductions in Medicare and Medicaid, farm programs, education, VA and other vital concerns without any ability to cast a vote up or down on any of these issues.

It is time to get our priorities straight. I've been a strong supporter of a balanced budget amendment and line-item veto as well as for budget spending caps. But this bill raises income taxes on families making less than $30,000 per year, slashes our investment in education, cuts agricultural programs three deeper than is needed to balance the budget, and cuts Medicare three times deeper than is needed to stabilize the Medicare Trust Fund. If that weren't bad enough, this bill spends billions on defense weapon pork the Pentagon doesn't even want, and gives tax breaks that primarily benefit the wealthiest 1 percent of families.

A recent analysis from our Joint Committee on Taxation finds that under H.R. 2491, families making less than $10,000 per year will pay a cumulative $879 million more in taxes, while families making more than $200,000 per year will get a $2.8 billion tax cut. This amounts to a $43 billion tax increase for families making less than $30,000—51 percent of all taxpayers.

It is my hope that this bill is either defeated or vetoed by the President so that we can commence a meaningful bipartisan effort to balance the budget with sane priorities and values. I will continue to support tough choices on the budget, but I will absolutely not be a part of this reverse-Robin Hood budget effort. South Dakotans and the American public deserve better.

Mr. COSTELLO. Mr. Chairman, the process of this reconciliation bill is such that I have not witnessed during my tenure on the Budget Committee. First, over half of the committees did not meet their reconciliation instructions, as directed under the budget resolution, to submit them to the Budget Committee. This has been the most convoluted process since my tenure began on the Budget Committee. At the very least, the mark-up of the budget reconciliation bill should have been postponed until all spending measures were completed and received by the Budget Committee.

While I was disappointed with the process of reporting the budget reconciliation legislation, I also disagree with many parts of this enormous package. This month, the Census Bureau released data for 1994 showing the income-gap between the wealthy and all other Americans is large and still growing. I am disappointed but not surprised that the Republican leadership's agenda is to reinforce this growing disparity in economic equality. The $245 billion tax cut mostly coming from the $270 cut out of Medicare will benefit primarily wealthy Americans. More than 50 percent of the benefit of the tax cut will go to the less than 3 percent of households with incomes over $200,000. We must get our fiscal house in order before we dismantle critical programs to pay for a tax cut. I fully support a tax cut for American taxpayers; however, such relief should come after we reach a balanced budget. A tax cut that is financed on the backs of he elderly, poor and disabled in our society will not benefit our Nation. It is not good economic practice and it is clearly harmful public policy.

Finally, in addition to my opposition to Medicare and Medicaid cuts, I find it outrageous that this legislation would:

Repeal national nursing home standards which exist through Medicare, which provide patients a basic minimum of safety, care and training in nursing homes;

Repeal the spousal impoverishment provisions of Medicaid, which ensure that spouses of long-term care patients do not become impoverished when the spouse is institutionalized; and

Repeal of a program instituted in 1992 to keep the coal health benefits program solvent. Over 100,000 retired coal miners rely on this fund, which could be jeopardized with repeal of this program.

For these and other reasons, I urge my colleagues to vote no on the Republican reconciliation plan.

Mr. RICHARDSON. Mr. Chairman, this budget reconciliation bill will undermine our commitments to educate our children, provide incentives for hardworking Americans, preserve our environment and most importantly ensure health care for poor children and the elderly.

This bill makes drastic cuts in Medicaid funding.

My State will lose about 30 percent of its Medicaid funding. New Mexico will have $1 billion less to spend on Medicaid over the next 7 years.

Let me remind you that the program we are cutting by $170 billion in this bill provides health care to children and pregnant women, the disabled and elderly in nursing homes.

Let us be clear that voting for this bill means millions of Americans will have no health care—while millionaires will get a tax break.

I have supported and will continue to support balanced, reasonable, reforms in Medicaid—but I cannot support irresponsible cuts to finance a tax cut. I do not support decimating the program that provides a safety net for poor children, pregnant women, the disabled and nursing home patients.

This bill also sacrifices the quality of health care for 40 million elderly who depend on Medicare.

The hospital association in my State has identified 11 hospitals that they believe will close because of the drastic Medicare cuts in this bill.

Nothing, especially a tax cut for the wealthy, is worth sacrificing the health of our children and over 40 million elderly in this country.

Mr. BARRETT of Nebraska. Mr. Chairman, I rise in support of the Republican Balanced Budget Reconciliation bill. I regret that meetings in my office prevented me from being on the floor earlier when Members on the other side of the aisle rose to denounce the agriculture title of this bill.

By passing this Reconciliation bill today, we are dramatically changing the 1930's depression-era-based Federal farm programs.

I believe that farm policy should be based on less government and free market principles; regulatory relief and simplification; aggressive, consistent export strategies; and fiscal responsibility.

The Freedom to Farm bill is the first step in accomplishing these goals.

This legislation provides for more planting flexibility, promotes full production, and allows farmers to manage their own businesses based on economic factors without government intervention.

Earlier this year, almost every political journalist questioned whether the New Republican majority would take a walk when it came to farm programs.

Well, as a part of this new majority, I'm proud that the Freedom to Farm bill meets the budget agreement target. Agriculture will do its fair share to help balance the budget by 2002 and the programs are indeed reformed.

By passing the Freedom to Farm provisions, the Republicans are saying good bye to the past—when Federal farm policies micro-managed farmers; and hello to the future—a future of world markets, and freeing farmers to seize the opportunities to capture these new markets.

I urge the body to support the Reconciliation bill.

Mr. UNDERWOOD. Mr. Chairman, I rise in opposition to H.R. 2491, the Omnibus Budget Reconciliation Act. I have been on record on previous occasions opposing the changes to Federal programs that have an unfair impact on the elderly, students, and the working poor. I share the commitment to fiscal responsibility that other Members have, but I remain unconvinced that this bill is fair burden-sharing.

I also call attention to the provision which would eliminate covenant funding for the Commonwealth of the Northern Mariana Islands [CNMI]. This funding was amended in December 1992 by an agreement negotiated by the Bush administration and the CNMI. To eliminate the funding now, without renegotiating the agreement, is a serious breach of faith with the covenant. The word of the U.S. Government should mean something, and commitments made by a President, whether Republication or Democrat, should be honored by Congress.

During the reconciliation resolution markup in the Committee on Resources, I noted that Congress has other insular issues that demand attention and that require funding. This includes the Rongelap resettlement funding, compact-impact reimbursement for Guam and the Northern Marianas, and the capital infrastructure needs of American Samoa, the Virgin Islands, and other insular territories.

The conference report on the fiscal year 1996 Interior Appropriations (H.R. 1977) offers a compromise solution to these issues. It is a compromise solution that the insular territories can accept, and one that I support. However, this compromise is contingent on continued CNMI covenant funding, and proposes that funds be made available for these other needs while still honoring CNMI covenant commitments. The budget reconciliation provision for the CNMI funding would therefore not only harm the CNMI, but in making the compromise solution unworkable, also harms all the insular territories.

Mr. COLEMAN. Mr. Chairman, I rise in strong opposition to this Republican reconciliation bill. After months of waiting for the majority to reveal its plans to balance the budget and finance a $245 billion tax cut, we finally have them in all its gruesome detail.

This bill does so much. The great majority of it bad. Even with the American people acknowledging that Republican legislative efforts disproportionately benefit upper income families and hurt those with lower incomes, the majority plunges on with cut after cut. There is no abating its destruction of anything that working Americans, the elderly, the children, and the poor hold so dear.

Let us begin with tax cuts. In the face of overwhelming evidence, Republicans refuse to back down from the huge tax cuts they are giving to corporations and wealthy individuals. This includes provisions which reduce taxes on capital gains, repeal the alternative minimum tax on corporations, increase business deductions, and give tax credits to upper income families. The majority of these tax cuts go to the heart of upper income America, as the U.S. Treasury Department has found.

Last week, the majority slashed $270 billion from Medicare which was incorporated into this reconciliation bill. As everyone knows, this cut was unnecessary for the Medicare Program to remain solvent. Its plan makes Medicare solvent only until 2006—exactly the same year as Democratic plans that only cost one-third as much. Why the extra cuts? To pay for a $245 billion tax break for the wealthy.

On the floor of the House, I hear Republican Members state that they were actually spending more per Medicare beneficiary. I heard them say that they were giving seniors more choices. But they never acknowledged the fact that seniors' premiums would increase by about $400. They grudgingly acknowledged that they would be herding our senior citizens into Health Maintenance Organizations [HMO's], thereby limiting choice of doctors.

The bill also guts the Earned Income Tax Credit [EITC]. Republicans have targeted the EITC for $23 billion in cuts. Savings also come from proposals to include Social Security and other retirement income as income for purposes of the EITC phaseout and increasing the EITC phaseout rate.

In the past, the EITC has been supported by both Democrats and Republicans as a program which promotes work over welfare and helps move or keep low-income working families out of poverty. President Reagan in 1986 called the EITC ''the best antipoverty, the best pro-family, the best job creation measure to come out of Congress.'' As recently as this February, the EITC was praised by House majority leader Dick Armey for ''rewarding work . . . without destroying jobs.'' Yet still they decimate this program.

These cuts hit my district particularly hard. The 48,647 families currently claiming the EITC in my district will face a tax increase of $7.4 million in 1996. Many of these families will no longer be able to qualify for the credit.

This bill also decimates the Medicaid Program. This bill cuts $182 billion from the Federal-State program that provides health insurance for the poor and disabled. H.R. 2491 replaces this important program with a capped block grant. States would receive a fixed amount of money with very few Federal requirements attached.

Texas would be profoundly impacted. My State could lose between $10 billion and $14 billion in Federal Medicaid funds between 1996 and 2002. Such losses will inevitably be passed along to local hospitals, nursing homes, doctors, and, ultimately, local Texas taxpayers.

In welfare reform, the cuts exacerbate the inequities that already exist. Currently, Texas has more than 7 percent of the U.S. population, yet receives less than 3 percent of the total U.S. expenditures on Aid to Families with Dependent Children. Michigan, with roughly half the population of Texas, gets twice as much Federal money for AFDC recipients as does Texas.

This situation would be made even worse under the current block grant proposals contained in this bill—the previously approved welfare reform legislation—H.R. 4. A preliminary analysis shows, for example, that block grant proposals for AFDC would hit Texas harder than any other State costing us $4.3 billion over 5 years. Michigan, at an average AFDC payment of $457 per month, and Wisconsin, at $517 per month, each pay their recipients two-and-a-half times as much as Texas, where the average monthly check is $188.

Yet, those and other high benefit States will receive more money under this bill, not less money—even though they have declining populations and higher per capital incomes.

While cutting welfare for the most needy, this legislation continues welfare for the rich. Under this legislation, companies would be allowed to withdraw excess funds from their pension plans without penalty. Currently, companies are required to fund pension plans at a minimum level but many experts consider this minimum inadequate. The penalty for withdrawal of excess funds protects workers pensions.

By letting companies put pension funding at risk, this bill undermines the security of workers pensions. Ultimately, this puts taxpayers at risk, as it is the taxpayer who gets stuck if pensions are not funded. In addition, this provision gives new opportunities to corporate raiders and takeover artists. Historically, corporate raiders have seen well-funded pension plans as a source of cash with which to finance the cost of a takeover. Congress imposed penalty taxes on these withdrawals not only to protect funds that belong to workers, but also to cut down on corporate takeovers and leveraged buyouts.

In the arena of education, the Republican reconciliation calls for student loan cuts of $10.1 billion over the next 7 years. This will mean fewer loans and fewer banks participating in the program. The student aid cuts follow already devastating cuts to this program. Student loans were cut by $477 million in 1986, $295 million in 1989, $2 billion in 1990, and $4.3 billion in 1993. This program has been cut by more than $7 billion in the past 10 years. And the Republicans want to cut it more.

The bill also terminates the very successful Direct Lending Program. This is the second student-aid program that House Republicans have voted to eliminate in the last 2 months. In addition, this bill also does away with the interest subsidy to college students during the first 6 months after a student leaves school. Eliminating this subsidy will increase students' costs by $3.5 billion, a pretty hefty tax on student borrowing. The provision ignores one of the principal reasons this 6-month grace period was put in the law in the first place: to help reduce potential defaults.

Proving that this bill is the anathema to the working class, the bill eliminates the Davis-Bacon Act and the Service Contract Act. Both these two pieces of law have served to protect workers in the service sector and the construction industries. In my congressional district of El Paso, the Davis-Bacon Act ensures that unscrupulous developers do not undercut wages paid to construction workers. Laws like Davis-Bacon and the Service Contract Act provide a stable foundation for workers in their respective industries. The savings from the repeal of these two laws come directly from the pockets of hard-working Americans.

I will tell you, Mr. Chairman, this bill leaves nothing untouched. Everyone knows about the provision to allow drilling in the Alaska National Wildlife Refuge which should be cause for concern. But do you know that this legislation also includes a hidden-away provision to

remove the authorization for the Border Environmental Cooperation Commission? This organization, which was created by the NAFTA to work alongside the North American Development Bank to address environmental problems on both sides of the United States/Mexico border, is being tampered with in this bill. Funding for this agency would have to come from authorizations for other trade functions. Representing a portion of the United States/Mexico border, this affects my area of the country, Mr. Chairman. It makes me wonder if the majority carefully looks at what it is doing.

There are some good parts to this bill, Mr. Chairman. But the good far outweighs the bad. I have previously supported provisions like the $500-per-child tax credit, the elimination of the marriage tax, the raising of the Social Security earnings limit to $30,000, and the repealing of the 1993 tax increase on Social Security benefits.

Yet even with these good elements, the Republicans insist on giving some provisions a bitter edge. For example, people with incomes of up to $200,000 can claim the child tax credit. I submit to you, Mr. Chairman, that these are the last individuals that should be receiving this tax credit. Better that the child tax credit go to working families with two earners struggling to make ends meet. It is my hope that the Senate will reduce this high threshold.

Mr. Chairman, the President has already stated that he will veto this bill and I support him in that endeavor. I believe it is unconscionable to cut health care for the poor, slash student loans, and increase taxes on low income working families, in order to pay for these new tax breaks for the most privileged segments of society. It is my hope that the majority will come back with a budget balancing bill that is fairer and more equitable for the American people. This bill is not, and I cannot support it.

Mr. GEJDENSON. Mr. Chairman, I rise in strong opposition to this far-reaching and destructive measure. This bill is perhaps the greatest transfer of wealth from the poor to the rich this country has ever experienced. This measure is a grab bag of giveaways to narrow special interests at the expense of the vast majority of our citizens, including seniors, middle class and low-income families, students, and the disabled. Among other things, this bill slashes Medicare by $270 billion, it abolishes Medicaid, Aid to Families with Dependent Children [AFDC], and the Department of Commerce, and contains numerous provisions attacking our most important and unspoiled natural resources. Each and every one of these provisions have been included in order to provide $245 billion in tax cuts to the wealthiest Americans and corporations. I urge my colleagues to carefully consider the ramifications of this measure. Indiscriminate cuts of nearly $1 trillion from the Federal budget will have tangible and profound adverse impacts on citizens and our economy in the near future and well beyond the arbitrary deadline of 2002. We can achieve substantial deficit reduction and move toward a balance budget without jeopardizing economic growth, income security and quality of life for tens of millions of Americans. If members consider these ramifications, they will join me in voting no.

While I have concerns about each and every title of this massive package, I will concentrate on several areas which are especially egregious to the people of eastern Connecticut and the Nation. The health care cuts contained in H.R. 2517 are extreme. With only one hearing, the Republicans have proposed a bill which cuts $270 billion from Medicare and $182 from the Medicaid Program. The reductions to these programs, which predominately serve seniors and low-income families with children, represent 50 percent of the total cuts in this bill. This is unfair.

It is ironic that the elimination of Medicaid has been included in the same piece of legislation as the ''crown jewel'' of the Republicans' Contract With America—a $20,000 tax break for the wealthiest Americans—because the Medicaid provisions break a contract between the government and the American people. This bill removes the Federal Government's guarantee of basic health care and long-term care services for uninsured, elderly, and disabled Americans.

The measure eliminates the current Medicaid Program and replaces it with State-controlled block grants called MediGrants. The bill also relaxes regulations on nursing homes, which currently ensure that patients receive appropriate care. Many of us remember the not-to-distant past when nursing home patients were unnecessarily restrained or heavily sedated against their will. This bill returns us to those dark ages of health care.

Perhaps the most appalling provisions of the bill, as approved by the House Commerce Committee, were two sections that repealed protections in current law regarding the families of nursing home patients. If Newt Gingrich had had his way, he would have permitted the Government to take away the homes of adult children in order to force them to pay for their parents' nursing home care. Mr. Gingrich would also have preferred to require the spouse of a nursing home resident to spend down his or her assets, including the individual's home, before the ill partner could be eligible for Medicaid coverage. Only after the Democrats in Congress exposed these cruel provisions and the public rebelled did the Republicans agree to remove them.

Further, this bill is bad for my State of Connecticut. Under the Republican's plan, Connecticut will lose between $1.6 and $3 billion in funding for Medicaid. Proponents of the legislation may claim that the increased administrative flexibility given to the States under this plan will generate enough savings to ensure that eligibility cuts will not be necessary. That is simply not true. On the contrary, in an independent analysis of the Republicans plan, the Urban Institute concluded that aggressive cost containment strategies employed by the States would not alone produce the savings needed to meet the $182 billion target.

In addition, H.R. 2517 contains provisions of the so-called Medicare Preservation Act which was considered by the House last week. I voted against this shortsighted legislation. While no one would argue that the Medicare program needs reforming to ensure the trust funds remain viable into the next century, there is significant disagreement surrounding the magnitude of cuts necessary to accomplish this goal.

Under the majority's plan, Medicare costs will go up. By the year 2002, the monthly premium will increase from the current $46.10 to $87. In addition, choice of doctors will be limited as a result of the financial incentives hidden in the bill which entice physicians to stop serving traditional Medicare patients.

Further, many provisions of current law designed to protect Medicare beneficiaries will be relaxed. If the Republican bill is enacted, under certain conditions, Medigap policies will be unregulated, insurance companies will be allowed to choose who they want to cover, and doctors will not be limited in the amount they can charge patients over the total amount that Medicare will pay for a procedure.

Title I, the so-called Freedom to Farm Act, fundamentally alters dairy policy in a manner which will be devastating to producers in my State and across the Northeast. While my mother, father, and brother continue to make their living on the family dairy farm, I raise these concerns on behalf of hundreds of dairy farmers across the second district. Under current law, 34 milk marketing orders, covering 99 percent of grade A milk produced in this country, help to guarantee farmers receive a minimum price for their product. The order system ensures efficient market operation and is administered at no cost to the Federal Government. No one in this body would argue the order system is perfect or without its detractors, but it has been reasonably successful in stabilizing markets for farmers and consumers.

Under this bill, marketing orders will be abolished on July 1, 1996. This will send the dairy industry into chaos, possibly disrupt supplies and drive down producer income. As most of my colleagues know, dairy farmers are not wealthy and struggle each and every year to make ends meet. Orders ensure that all farmers, regardless of whether their farm happens to be 10 or 100 miles from Boston, receive the same basic price for their product. Orders guarantee farmers with high production costs can compete with those who have easy access to feed and grain and are not faced with high tax burdens shouldered by most of my constituents. Certain producers in the upper Midwest argue the order system provides farmers in the Northeast and Southeast with unfairly high prices for their product. While the blend price in New England is higher than in the upper Midwest, the mailbox price, the price farmers actually receive when all expenses are deducted, was lower in New England in the first 3 months of this year than in virtually any other region of the Nation. While farmers in my area received a mailbox price of $11.89 per hundred weight, producers in the upper Midwest received $12.26.

Mr. Chairman, States will not be able to step in and replace Federal orders. As most economists will agree, markets do not respect political boundaries. Moreover, milksheds, which supply markets, often cover multiple States and are usually not served by single co-op. Moreover, orders are even more important in light of the fact that this bill eliminates price supports for milk at the end of this year. Interestingly, the bill maintains high price supports for peanuts and sugar. Economists familiar with the dairy industry have documented the interaction between price supports and Federal orders. Neither is sufficient to guarantee producers a fair return for their product, but together they help to ensure equitable prices are distributed to all producers.

Milk marketing orders represent a voluntary system, supported by producers and handlers, and financed by the industry which benefit farmers and consumers alike. By eliminating orders, this bill guarantees that farmers in my State will see their income reduced by nearly $7 million in 1996. This cut will be devastating

to the rural economy as it will reverberate from producers to haulers, suppliers, and processors.

Title 9, written by Republicans on the Resources Committee, is among the most egregious. As ranking member GEORGE MILLER described during markup on September 19, this title represents an early Christmas present for miners, loggers, ranchers, multinational oil and gas interests, subsidized irrigators, and major concession operators. The American people won't find any presents under the tree, but plenty of coal in their stockings. This package affects virtually every aspect of our natural resource policy and benefits narrow special interest at the expense of the American people who own these resources and hope to enjoy their recreational, aesthetic, and economic benefits.

In spite of the fact that we import about 50 percent of our oil, title 9 contains the text of legislation passed earlier this year lifting the ban on exporting oil from Alaska. It makes absolutely no sense to me to lift the ban when we are unable to meet more than one-half of our energy needs. I wouldn't be surprised to see reports in a year or two about how Americans are buying oil from Japan which ultimately came from Prudhoe Bay.

In devastating attack on one of our Nation's most pristine and productive wildlife areas, the bill opens the coastal plain of the Arctic National Wildlife Refuge [ANWR] to oil and gas exploration. As many Members know, the coastal plain has been protected in one form or another since 1960 and serves as the primary calving ground for 160,000 caribou and provides vital habitat for polar bears, musk oxen, and snow geese. This measure forces the Secretary of Interior to begin leasing tracts in ANWR within 12 months of enactment. While the coastal plain encompasses 1.5 million acres, the Secretary is barred from setting aside more than 30,000 acres—merely 2 percent of the total area—to protect important habitat. Virtually every environmental law is suspended and public comment is sharply curtailed. In fact, the bill deems an outdated environmental impact statement [EIS] prepared by the Reagan administration ''to be adequate and legally sufficient for all actions authorized pursuant to this section, including all phases of oil and gas leasing, exploration, development, production, transportation, and related activities.'' This language is so sweeping that it insulates every action from the first lease sale to transportation of oil to tankers from environmental review and any mitigation measures not mentioned in the EIS. This provision is even more alarming because the Fish and Wildlife Service [FWS] recently updated the EIS and determined oil and gas exploration will have serious negative effects on caribou and other wildlife species, water quality and the arctic environment in general.

While the environmental consequences of this provision are devastating, the financial provisions should also cause Members concern because they are built like a house of cards. The bill assumes oil and gas leasing will generate $1.3 billion in revenue over 7 years. This figure is based on the Government receiving 50 percent of all lease and royalty income. However, the Alaska Statehood Act guarantees the State 90 percent of all revenue from oil and gas activities. The committee leadership was well aware of the 90 to 10 split when it crafted this provision. The State has made it clear it will go to court to enforce the split set forth in the Statehood Act. If the State is successful, the American people will receive only $260 million for opening this national treasure to the oil barons.

This title includes numerous provisions for special interests which threaten environment and fail to generate any appreciable revenue. It bars the Secretary of Interior from implementing reasonable grazing reform designed to protect sensitive environmental areas and ensure the American people receive a fair return on the use of their resources. In its place, it includes language which virtually guarantees Federal grazing fees will not increase and is completely devoid of any environmental standards.

It incorporates sham mining reform which gives taxpayers the ''shaft.'' Overwhelming majorities of this body have voted repeatedly to eliminate patenting. In fact, the conference report on the Interior appropriations bill was recently sent back to committee because it failed to include a moratorium on patenting. While proponents of this bill will tell you patenting has been reformed by requiring miners to pay ''fair market value,'' they fail to inform Members this term is based on the value of the surface estate and specifically excludes consideration of the minerals below. Desert land in the middle of nowhere isn't worth much more than $5 per acre if one fails to consider the gold, silver, and platinum which lies below the surface. Proponents will tell Members their approach includes a Royalty which will generate revenue for the taxpayers. They fail to mention there are 13 deductions, including the cost of insurance for employees and environmental compliance, which can be taken before the royalty is assessed. The CBO determined this royalty would not generate any revenue for the Federal Government. Once again, the taxpayers take a hit while miners get a great deal.

In one small victory for the American people, Budget Chairman KASICH stripped the text of H.R. 260, which is designed to close national parks, monuments, and recreation areas, from this package. I worked very closely with the gentleman from New Mexico, Mr. RICHARDSON, and the gentlemen from New Jersey, Mr. PALLONE, to remove this ill-conceived measure from the bill. As many of my colleagues know, the House defeated H.R. 260 by a vote 180 to 231 on September 19. However, about 6 hours later, several Republican members on the Resources Committee offered it as an amendment to the reconciliation bill. This was a blatant attack on the will of the majority and could not be allowed to stand. I believe Chairman KASICH's action demonstrates majority rule is still the most important rule of the House.

In perhaps the most blatant example of legislative ''trophy hunting,'' title 17 abolishes the Department of Commerce by September 30, 1996. In an attempt to score cheap political points, the majority is eliminating the only Department which is aggressively working to open foreign markets, create new business opportunities at home, and prepare our economy for the challenges of the 21st century. This action is completely contrary to the national interest because it threatens the competitive position of this country. If this title is enacted into law, the United States will be the only developed country in the world without a cabinet-level agency responsible for trade promotion and development. Once again, extremists in the Republican Party are putting the narrow interest of some freshman Members ahead of the interests of the American people.

This title abolishes the Economic Development Administration, U.S. Travel and Tourism Administration [USTTA], International Trade Administration, and many other smaller, but worthwhile, programs. Many of the proposed terminations and transfers make no sense from a policy process or fiscal perspective. The EDA assists thousands of communities nationwide in developing infrastructure necessary to support economic growth and job creation. While combining the trade promotion functions of Commerce with the trade enforcement functions of the U.S. Trade Representative may appear to make sense, in fact, proponents of this approach are forcing the Trade Representative to carry out functions which are inherently at odds. Eliminating the USTTA is among the most shortsighted provisions of this bill. Tourism is our largest service export and generated a trade surplus of $21.6 billion in 1994. Travel and tourism is America's second largest employer, providing 14.3 million direct and indirect jobs. In addition, it generated $417 billion in sales last year. While governments of other nations around the world are aggressively promoting tourism, this provision undermines of competitive position in the global market place.

Moreover, this title guts the National Oceanic and Atmospheric Administration [NOAA] by terminating many nationally significant programs and scattering remaining NOAA functions across the Federal Government. Under these provisions, research of vital importance to our coastal communities, fishermen and every American will be eliminated or sharply curtailed. Cuts in NOAA will hinder our efforts to rebuild fisheries in New England, the Pacific Northwest, and the Gulf of Mexico, assess the implications of global warming on coastal communities and curb pollution of the marine environment.

I am also terribly concerned about the vicious attacks on Federal employees in this legislation. The bill raises employee contributions to their retirement systems and delays cost-of-living adjustments. The Government promised Federal workers adequate health and retirement benefits when they chose to enter the civil service. Federal employees have upheld their end of the contract by serving their country. It's wrong for the Government to now suddenly change the terms of the agreement in order to pay for tax cuts for the wealthy.

Republicans say they can save $10 billion from student loan programs. Cutting out programs and raising interest rates may look good on paper, but the real effects on American families will be very different.

Changes in student financial aid programs will be devastating to middle-class Americans trying to send their children to college. It is an outrage that the Direct Loan Program is being legislated out of existence just when hundreds of additional schools were ready to help ease the bureaucratic nightmare for students and their parents. The real beneficiary of direct loan's demise is not the American people, but the banking industry that was beginning to feel some competition.

The elimination of the grace period will not result in the savings projected by the Republicans. After graduation, it often takes at least

6 months to find a permanent position. Without the grace period, many students will start out unable to begin repaying their loans. As the unpaid debt continues to accumulate, the likelihood of default increases.

Limiting the PLUS Loan Program to a fixed amount per child will force many parents to take out loans from other sources. Many will have to resort to home equity loans at very high interest rates. Families with several children may be burdened beyond the breaking point, leaving huge debts and no means to provide for younger children. Under the current program, parents could be confident that, even if other forms of aid were unavailable, PLUS loans would enable their children could go to college.

Finally, the ''crown jewel'' of the bill—$245 billion in tax cuts—is a windfall for the rich and large corporations. The wealthiest 1 percent of our citizens, those making more than $350,000 per year, will see their taxes reduced by more than $14,000 per year. At the same time, 70 percent of the American people will see their taxes go up or stay the same. Perhaps the greatest injustice is visited on those people at the bottom of the economic latter, the working poor who are struggling to do the ''right'' thing by working to support themselves and their families, will see their taxes increase due to massive reductions in the earned income tax credit. The 150 page tax section of this bill reads like a wish list for corporate America: 50 percent capital gains reduction, 25 percent corporate alternative tax for capital gains, and repeal of corporate alternative minimum tax. These provisions are ''Robin Hood'' in reverse—they take from the poor and give to the rich.

Mr. Chairman, this package sets the wrong direction for this country. It fails to invest in our future, it jeopardizes the health of millions of senior and low-income Americans, and it provides unnecessary tax breaks to the wealthiest among us at the expense of the least fortunate. Moreover, many of its revenue assumptions are based on rosy scenarios or simple delusions which will never materialize. As a result, the American people will be left with the fallout of failed policies as well as empty pockets. Republicans are hurtling along this devastating course because they signed a contract with themselves to achieve certain arbitrary goals and deadlines set forth in an election year stunt. Rather than admitting that election year rhetoric should not be the basis for our economic and social policy into the next century, Members of the majority are repeating over and over ''the contract says, the contract says.'' I urge may colleagues to consider the unprecedented effects of this measure and defeat it.

Mr. RUSH. Mr. Chairman, I rise today to address the most egregious assault on the American people by the Republican majority to date. It comes in the form of the budget reconciliation package. We have seen the missiles fired throughout the year. Medicaid has been cut by $182 billion. Medicare has been cut by $270 million. Ironically, the Republicans have proposed a tax cut for the wealthiest Americans at a cost of $245 billion. Now that the enemy has pillaged these areas, they now seek to launch an all out offensive on any and all areas that serve the needs of American people.

The great injustices of history have been committed in the name of unchecked and unbridled majority rule. The Framers of the Constitution warned us about the tyranny of the majority. Their fears have become reality. This bill is tyranny in the truest sense. Programs which assist people in achieving some of the goals we relish as a society are under attack. Affordable housing programs within the RTC and FDIC have been terminated. Student loans have been cut by $10 billion. As the Republicans march along to achieve their ultimate victory—a tax cut for the wealthiest of Americans—the safety net for the rest of America is being pulled from under them. The earned income tax credit, which helps the poorest of Americans will be reduced by 18 percent. Keep in mind, that individuals who receive EITC have an average salary of $11,000. The Republican majority has turned its back on the people who chose them to represent their best interests. This measure is tantamount to thievery—the theft of the sanctity of the American people.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 2491, the 7-year balanced budget reconciliation act of 1995. The Republican championed budget, H.R. 2491, is firm evidence that there is no end to their attack on the weakest in our society—children and seniors. There is no question that they and their families will be worse off under the Republican budget. H.R. 2491 is just one in the series of—Republican escalating assault, after assault, on the children and seniors of this Nation, and is consistent with the majority's sentiment that the American peoples' knees would buckle once they knew what cuts the Republicans would make.

H.R. 2491 takes away families' hope, takes away their opportunity for a better life, and takes away their ability to achieve the American dream. In return, the Republican measure burdens them with endless suffering, pain, and despair. What an astronomical price the American people are being forced to pay just to give a tax break to the rich. Keep in mind that this price tag has been levied on the American people by a self-proclaimed family friendly—promises made promises kept touted—Republican majority Congress.

Let's be up front with the American people. Tell them exactly what H.R. 2491 is taking away from them, their parents, their children, and their family. The hardship that is buried in the nearly 1,600 page coldhearted Republican championed budget, H.R. 2491, is one nightmare that should never see the light of day.

In addition to dismantling Medicare, gutting it by $270 billion, doubling seniors health care premiums, forcing seniors to give up their personal physician, and denying seniors nursing home care and nursing home protection, the Republicans' budget repeals Medicaid and guts the program by $182 billion. The guaranteed coverage for basic health and long-term health care for 36 million poor children, poor pregnant women and infants, and seniors is taken away. Coverage for elderly with Alzheimer's; and coverage for women with breast cancer is taken away. Where can they turn for health care services when under the Republicans' Medicaid Block Grant the States are permitted to deny and ration coverage by geographical area or political subdivision, and the safety net is shattered?

The Republican budget destroys children's opportunity for a good education and restricts their academic achievement. H.R. 2491 takes away Head Start from 180,000 disadvantaged children; takes away basic assistance in reading and math from over 1 million disadvantaged children; deprives over 32 million students the safety of a drug-free and violence-free classroom; denies summer jobs to over 600,000 students each year; and saddles college students and their families with higher college loans.

The Republican budget jeopardizes the health of millions of children. H.R. 2491 takes away health care for over 4 million needy and disabled children; threatens hundreds of thousands of children's receipt of critical immunizations by repealing the vaccines for children program; threatens the availability of school lunches and other nutritious meals for 32 million hungry children; takes away vital prenatal infant mortality prevention services from 1 million women; and exposes children to hazardous waste, toxic air, lead poisoning, contaminated drinking water, and unsafe housing.

The Republican budget erodes the quality of life for millions of families. H.R. 2491 drastically reduces the earned income tax credit for 17 million low income working families; increase taxes for families with two or more children by an average of $483; forces over 2 million families to go hungry by taking away their food stamps; takes away heating assistance from 6 million children and their families; reduces dislocated worker assistance and employment training; denies families with disabled children the assistance they desperately need; denies housing assistance to hundreds of thousands of needy hard working families; and places millions of hard working families at risk for homelessness and domestic abuse.

The Republican budget weakens the Nation's economy. The abolishment of the U.S. Department of Commerce jeopardizes the Nation's effectiveness in the world trade market, reduces jobs and venture opportunities, and drastically reduces minority business development opportunities.

Mr. Chairman, is there no end to the Republicans' attack on the most vulnerable in our society? What could poor little innocent children, frail and weak seniors, and hard working families have done to warrant the Republicans' coldhearted attack? How much more will the Republicans take away from children and seniors in order to pay for a tax break for the wealthy? Let's stand up for the needs of those who cannot defend themselves, and for those who entrust us with their future—the children, seniors, and hard working families. I strongly urge my colleagues to join with me in voting against the Republicans' callous assault. Vote no to H.R. 2491.

Mr. HAMILTON. Mr. Chairman, I am deeply concerned about the process the House has followed in considering the Omnibus Reconciliation bill. Those concerns are outlined in my statement before the Committee on Rules on this bill.

I believe that this process represents an unprecedented attach on this institution. I hope my colleagues will keep in mind the concerns outlined in my statement during consideration of this bill.

STATEMENT OF THE HON. LEE H. HAMILTON BEFORE THE COMMITTEE ON RULES ON H.R. 2517, THE OMNIBUS RECONCILIATION BILL

Mr. Chairman, Mr. Moakley, and other members of the Committee on Rules, I appreciate the opportunity to appear before you on H.R. 2517, the omnibus reconciliation package.

I am here today because I am troubled by the pattern of abuse of the legislative process that has been developing during this Congress. This bill exemplifies that abuse.

Now I know that reconciliation bills under Democratic majorities were not pure. Problems with the process have been growing over the years, given that the original reconciliation bill dealt with $8 billion, and today we cannot even estimate the total sums both ''reconciled'' and authorized in this package.

This reconciliation bill enters a new universe in its breadth, the sheer number and complexity of proposals, and the extent to which committees of jurisdiction—and thus, all Members of the minority—were shut out of developing this package.

The reconciliation package contains three large items and several smaller provisions that fall within the jurisdiction of the International Relations Committee.

First, H.R. 2517 contains a major legislative proposal dramatically changing the configuration of the Commerce Department. The Committee has jurisdiction over international trade issues, so the dismantlement of the Commerce Department causes great concern. The Committee never considered the measure.

Second, this bill ''deems'' enacted the entire foreign affairs agencies' reorganization bill. Action has not yet been completed in the Senate.

Third, the bill contains the text of H.R. 927, the Cuban Liberty and Democratic Solidarity Act, approved by the House last month. This bill was altered substantially by the Senate, and should be scheduled for conference.

The purpose of a reconciliation bill is to bring direct spending in line with the targets set by the budget resolution. Among the many problems with this bill, these items in the jurisdiction of the International Relations Committee have nothing to do with budget reconciliation. These items will cost money.

Quite simply, this is the wrong way for the House to go about its business.

PROBLEMS WITH THE PROCESS

(1) This process places enormous power in the Leadership, who will consult only with those persons and groups they want to include.

The Committee is bypassed, an entire House of the Congress is bypassed. All decisionmaking about the issues occurs behind closed doors in a group formed by the leaders of the majority. Final decisions are made by the Speaker. You have created a largely secret system.

This is a system which *reduces* accountability. It is an entirely closed process. The average American has no way of learning which Members are involved, which special interest groups are consulted or locked out, and what positions Members have taken on a proposal until it is too late and the House has voted.

Many members of both parties with significant expertise were simply not welcome to contribute to the process.

(2) This process bypasses and undermines the entire committee system.

When the Chairman decides to waive consideration of bills that are central to the committee's jurisdiction, most Members—including, all Members of the minority—are shut out. The Commerce proposal is a case in point. Our Committee had *no* role in developing that proposal. We held no hearings on this proposal, there was no debate, we had no markup, no amendments were permitted, we did not vote. We defaulted on our responsibilities.

The Committee is also stripped of its responsibilities when items that is has considered and moved through the House are included in the reconciliation package. Moving the Committee's foreign affairs reorganization bill or the Cuba bill through the reconciliation bill removes the Committee from meaningful participation in a conference. It puts these major foreign policy bills into a conference with a mix of 1000 other domestic items. The substance of these bills will not likely be discussed in a reconciliation conference.

In the last Congress, Republicans and Democrats working on congressional reform talked about streamlining, modernizing, rationalizing, and enhancing the committee system. Congressman Dreier and I worked many long hours on these issues. But we did not talk about what has come to be in this Congress: bypassing committees on major policy issues.

(3) This process produces a monster bill.

This bill is simply overwhelming. What we have before us—all 1754 pages—is not really the entire bill. It does not yet include the Medicare package. There are several other bills that are hundreds of pages themselves—such as H.R. 1561 and the welfare reform package—that this bill incorporates by reference.

This reconciliation package will include that majority votes in committees rejected. The ''Freedom to Farm'' bill, for example.

It includes bills the bulk of which the House has rejected, such as the mining patents and national park concessions proposals.

It includes bills such as the Cuba bill, that have passed the House and Senate in very different forms. There is every reason to send this bill to conference under regular process.

It includes bills—for instance, the Commerce proposal—created by a task force made up only of Members of the majority party, *after* committees have reported out different measures and some committees—such as the International Relations Committee—were apparently instructed by the Leadership not to act at all.

(4) This process will include a tightly constrained rule.

Reconciliation bills traditionally impose severe constraints on time for debate and the opportunity to amend. You will undoubtedly prescribe a restrictive rule, a rule designed to keep the package intact.

The Senate accords only 20 hours of debate (12 minutes per Member) on the bill. In this bill, that means just over one minute per page.

We have had only a few days to digest this enormous bill. And the contents of the bill we take up on the floor are anyone's guess—I expect your rule will include significant ''self-executing'' changes.

We will probably know even less about the contents of the reconciliation conference report before we must vote on it.

(5) This process is not defensible because the ends do not justify the means.

I understand that the current Leadership has a very different view of the committee system. If the Leadership is driven only by outcome then process is irrelevant. Having the votes at the end of the day is all that matters.

I believe that the essence of democracy is process, and that the end does not justify the means, the means is as important as the end.

That means a process that guarantees that all Members will have an opportunity to be heard, even if they do not have the chance to prevail.

It means a process that allows every Member to offer amendments and to vote, and every constituent to track how their representative has voted as a bill winds it way from committee, to the floor, to conference, and to the President.

It means a process that allows those who have spent time developing expertise in a particular area to have a seat at the negotiating table.

Eliminating consideration by committees, by one House, silencing voices, reducing the number of people at the negotiating table may get bills through the House faster. You may get bills out of conference more quickly. But in the end we will not get better laws. And we will erode the foundations of this institution.

CONCLUSION

We are subverting the entire legislative process here, decision by decision. We are taking bills to the Floor that have not been written or even considered by the committees of jurisdiction and expertise.

Protecting the committee system in this House should not be a partisan issue. Safeguarding the legislative process is not partisan.

For these reasons, I urge you to support Mr. HALL's efforts to strip the foreign affairs reorganization provisions from H.R. 2517. I would also support any efforts to strip the Commerce and Cuba provisions from this bill.

And I ask that you think very seriously about the entire way you're planning to move this reconciliation package. Subverting the legislative process does a grave disservice to this body, and to the American people.

Mr. TOWNS. Mr. Chairman, make no mistake about the measure before us today. It is a major setback for nursing home care in this country. In my district alone, cuts in Medicaid will result in a $32 million loss to just Cobble Hill Nursing Home, and that figure is just for one nursing home.

Not only are the cuts devastating to nursing homes, the elimination of minimum care standards add insult to injury. These standards were passed in 1987 precisely because of widespread abuse, neglect and indecent conditions in the Nation's nursing homes. Under this bill, all these protections are wiped out:

Gone are the curbs on misuse of physical restraints and abuse of drugs;

Gone is the requirement for round-the-clock licensed nursing services;

Gone is the prohibition against evicting patients on financial reasons. Patients now will be subject to eviction or transfer from nursing homes after their private funds have been depleted and before Medicaid assumes payment.

And finally, this bill contains no guarantee of healthy, appropriate meals.

There is not question that nursing home care will return to the dark ages. Mr. Chairman, if we can not protect ''those who are the least of these,'' like nursing home residents, then who can we protect?

Mr. RICHARDSON. Mr Chairman, this budget reconciliation bill will undermine our commitments to educate our children, provide incentives for hardworking Americans, preserve our environment, and most importantly ensure health care for poor children and the elderly.

This bill makes drastic cuts in Medicaid funding.

My State will lose about 30 percent of its Medicaid funding. New Mexico will have $1 billion less to spend on Medicaid over the next 7 years.

Let me remind you that the program we are cutting by $170 billion in this bill provides health care to children and pregnant women, the disabled and elderly in nursing homes.

Let us be clear that voting for this bill means millions of Americans will have no health care—while millionaires will get a tax break.

I have supported and will continue to support balanced, reasonable, reforms in Medicaid—but I cannot support irresponsible cuts to finance a tax cut. I do not support decimating the program that provides a safety net for poor children, pregnant women, the disabled, and nursing home patients.

This bill also sacrifices the quality of health care for 40 million elderly who depend on Medicare.

The hospital association in my State has identified 11 hospitals that they believe will close because of the drastic Medicare cuts in this bill.

Nothing, especially at tax cut for wealthy, is worth sacrificing the health of our children and over 40 million elderly in this country.

Mr. BILBRAY. Mr. Chairman, as county supervisor in 1994, I asked the Clinton administration to declare a Federal emergency over illegal immigration in San Diego County.

That year my county reduced its contract with UCSD Medical center to provide emergency services to indigent patients by 50 percent or a total of $5 million.

The Board of Supervisors implemented this reduction based on estimates that half of the indigent patients receiving emergency care at UCSD were illegal immigrants, and that these costs should not be the burden of local government.

President Clinton, who denied my request to declare a state of emergency in 1994, is now threatening to veto our balanced budget package.

He should think long and hard about denying hospitals funds to ensure that they can keep providing services to our most vulnerable citizens.

His veto threat particularly jeopardizes California hospitals keeping their emergency room doors open to everyone.

President Clinton allocated only $150 million in his budget to States nationwide for health care for illegal immigrants.

The 7 year Balanced Budget Reconciliation Act, contains funding to reimburse hospitals for health care which they are required to provide to illegal immigrants.

An approximately $3 billion trust fund will be made available to States most severely impacted by illegal immigration; California will receive the largest share since it has the highest population of illegals in the Nation.

What we have created is a pot of money to pay hospitals for the services the Federal Government requires them to provide.

It is unprecedented. Previously, the State and local governments and hospitals have borne the responsibility for the Federal Government's failure to secure our borders.

Now, for the first time, hospitals will send the bill for illegal immigrants health care where it rightfully belongs: to Washington, DC.

What we have seen in California is a direct consequence of the Federal Government's failure to secure our borders.

Our ability to provide health care to our poor and disabled citizens is being jeopardized by the increasing costs of providing health care to illegal aliens.

I would point to Los Angeles County health care system's near collapse as an example of the strain providing care to illegal immigrants places on emergency rooms already stretched beyond their resources.

An estimated 96,000 babies will be born to undocumented women covered by Medi-Cal, California's Medicaid program, at a cost of $230 million in medical bills this year.

Because hospital workers are prohibited by law from asking a patient's immigration status, these costs are absorbed and paid for out of other parts of the hospital's budget.

An increasing share of these dollars must cover the costs of California's large, and growing, illegal immigration population.

The trust fund we are creating today represents the first time that Congress accepts that providing emergency health care services to illegal immigrants is a Federal responsibility, not a State responsibility.

Past Congresses have failed in this regard.

Today, we take the first step toward addressing this problem. I look forward to working with Speaker GINGRICH and Senator DOLE as we toward reconciling the differences between the House and Senate budget bills and allocating California, and other States, their fair share of these funds.

[From the Blade-Citizen, La Costa, CA, Aug. 26, 1994]

WILSON, BILBRAY ASK CLINTON FOR DECLARATION

(By Michael J. Williams)

SAN DIEGO.—First District Supervisor Brian Bilbray, with the support of Gov. Pete Wilson, on Thursday called for President Clinton to declare a federal emergency over illegal immigration in San Diego County.

The demand, made at a press conference at the UCSD Medical Center, comes in the midst of publicity surrounding a wave of Cuban immigrants to Florida.

The flood of immigrants inspired Florida Gov. Lawton Chiles to declare a state of emergency and mobilize National Guard troops in his state.

But illegal immigration into San Diego County is as chronically heavy as Florida influxes like the Mariel boat lift in 1980, said Bilbray, the Republican candidate for the 49th Congressional District.

According to Bilbray, the influx of Cubans and Haitians to Florida's shores pales compared to the wave of immigrants crossing the international border into San Diego County.

''There are 500 people a day coming into Florida, the governor declared an emergency and the president responded,'' Bilbray said in an interview following the press conference. ''We've got three times that number every night. If you're going to hold the line in Miami, doggone it, we're part of the country too.''

In the press conference, Bilbray announced that he intends to ask his colleagues on the Board of Supervisors on Sept. 20 to adopt a resolution declaring a state of emergency.

The resolution also asks the governor to seek federal interdiction of illegal immigrants at the border and reiterates a demand of reimbursement to the state and county for the cost of providing services to illegal immigrants.

''The president said that the days of ignoring this problem are over with,'' Bilbray said. ''He's doing it in Miami, and he ought to be doing it in California. We have the just right to make sure our resources are being used to stop illegal aliens and drugs from crossing the border here.''

Wilson, who is campaigning to keep his gubernatorial seat, stated his support for the resolution, which echoes demands he made of the federal government earlier this year.

Immigrant rights advocates have decried the demands as campaign tactics and disputed the claims that immigrants are costing the state billions of dollars in health and social services.

[From the Blade-Citizen, North County, CA, Sep. 24, 1994]

BILBRAY PRESSES ONWARD

WANTS AGGRESSIVE APPROACH TO HALTING ILLEGAL IMMIGRATION

(By Michael J. Williams)

SAN DIEGO.—Despite a rebuff from the Clinton administration, county Supervisor Brian Bilbray said Friday he will continue demanding a declaration of emergency over illegal immigration here.

Bilbray said it was hypocritical for the Federal Government to reject the county Board of Supervisors' demand, while honoring a similar demand made recently by Florida Gov. Lawton Chiles in response to the flight of Cubans to his State. The government used the Navy, Coast Guard and other agencies to stop Cubans trying to sail to Florida on rafts.

''We're supposed to be grateful for what they did in Florida?'' Bilbray asked. ''We deserve the same attention that they have given down there. We may be 3,000 miles away, but we're citizens too. It's like rubbing salt in the wound to those of us who have to live with the illegal-immigration problems.''

After county supervisors approved their resolution with the support of Gov. Pete Wilson, Attorney General Janet Reno responded Wednesday with a letter to the governor rejecting the county's plea.

Reno said the Clinton administration has already taken steps to address the county's and state's problems with illegal immigration through Operation Gatekeeper, a plan she announced last weeekend.

Under that plan, the federal government would allocate hundreds of additional Border Patrol agents to the Southwestern borders, place high-powered lights at the border, install a fingerprinting system to detect illegals, launch a crackdown on immigrant smugglers and add 110 new inspectors at border entry ports.

Additionally, Reno announced the state will be reimbursed for $130 million in immigration costs.

''I don't argue that they're starting to move in the right direction,'' said Bilbray, who is running for Congress in the South Bay. ''What I argue is that they're approaching this with a double standard—they're using a slow, methodical approach to the border here, when they used an aggressive, dynamic approach in Florida. We have three times the amount of illegal immigration that Florida has.''

Reno also suggested the county can receive federal emergency immigration funding without a formally recognized declaration of emergency.

Though the county has without success sent a $64 million bill to the White House for the estimated cost of providing services to illegal immigrants, there has been no response to date, said Assistant Auditor and Controller William Kelly.

Reno said in her letter that neither the state nor the county has applied for the funds through her office, which is authorized to distribute them. Kelly said he is preparing

to send out a new bill, this time directly to Reno.

Meanwhile, the county's declaration has fueled indignation from the Mexican foreign ministry.

The ministry sent a letter Wednesday to Bilbray stating that the county's tactic will damage relations between the two countries and undermine the campaign against racism and xenophobia in California.

Bilbray said he was surprised and shocked by the response.

CASE STUDIES

In October 1994, a 19-year-old male was crossing the border to visit his children, who live with their mother in San Diego. Witnesses state he was hit by a border patrol vehicle, but the Border Patrol denies responsibility. The man has been in a coma at UCSD Medical Center ever since. He has been denied Medi-Cal because he is not a resident. His family in Mexico has retained an attorney and refuses to allow transfer of the patient to a facility in Mexico. They are suing the Border Patrol. As we have pursued legal authorization to transfer the patient, we have provided over $400,000 in care for which there is no funding.

A patient of unknown age was struck by an automobile and admitted in October 1994. No liability was acknowledged by the driver, and the patient has a closed head injury and cannot provide information about herself. It appears that the individual was homeless and living in an encampment. The patient was referred to the Medi-Cal program, and the case approved at the end of February for long-term care only. Since the patient was unable to validate residence to obtain Medi-Cal coverage for hospital charges incurred up until her discharge in March, there is not funding for hospital charges of over $345,000.

An undocumented immigrant who is a 27-year-old quadriplegic with a tracheal tube was granted legal status as Prucol (Patient Residing Under Cover of Law) so that the patient could be cared for in a Skilled Nursing Facility (SNF) and receive Medi-Cal benefits. At some point, the benefits granted under Prucol status were reduced so that while SNF and inpatient hospitalization would be covered, physician services would not. The SNF which had been providing care transferred to the patient to USCD Medical Center, and now refuses to take the patient back because of the curtailment of Medi-Cal to cover the physician fees. The patient remains at UCSD while we investigate alternatives. So far, charges total $215,180.

A 24-year-old Ethiopian with a large facial mass arrived in the United States with a valid passport, supposedly after making arrangements with a local physician for treatment prior to leaving Ethiopia. Somehow, the contact with the community physician was never made, and the patient was admitted to UCSD with complications arising from the tumor. UCSD has treated the patient and is facilitating ongoing care with the City of Hope. There is no funding for charges of $62,141.

UCSD MEDICAL CENTER

ILLEGAL IMMIGRANTS: AN UNFUNDED MANDATE

The issue of undocumented immigrants using publicly funded services has become a subject of intense public and political debate. The problem was brought into focus during the 1994 election year. Proposition 187 was on the California ballot, and the issue of illegal immigration became a campaign theme for many seeking election or re-election.

For hospitals like UCSD Medical Center, the primary issue is one of funding. Control of the borders is clearly the purview of the federal government. Who has the responsibility for these individuals once they are in the United States is another question.

State and federal laws require hospitals to provide emergency treatment to all individual, regardless of their ability to pay, or their legal status. This includes trauma care, labor and delivery for women giving birth, and appropriate assessment, treatment and follow-up for children and adults with emergency medical needs.

Of ethical and professional importance to physicians is the Hippocratic Oath, taken upon graduation from medical school, which includes the vow that ''. . . The health and life on my patient will be my first consideration . . . I will not permit consideration of race, religion, nationality, ideology, or social standing to intervene between my duty and my patient . . .''

As a trauma center serving a region that extends south to the U.S./Mexico border; as a hospital that traditionally provides care to a large percentage of the county's indigent patients; and as a facility housing specialized services such as the San Diego Regional Burn Center and Infant Special Care Center, UCSD Medical Center has assumed a large share of the burden of caring for undocumented immigrants. While numbers are estimates based on assumptions reached from evaluating patient records:

An estimated 3,600 inpatients at UCSD Medical Center in 1994 were undocumented aliens, or approximately 17 percent of total inpatients. About 84 percent of these were undercompensated; others were eligible for some form of support or were able to pay for their care.

Of all undocumented immigrants admitted to UCSD Medical Center in 1994 through the emergency room, trauma or some other service mandated by state and federal law, 99 percent were undercompensated patients.

Of all undercompensated illegal immigrants admitted to the Medical Center in 1994, 85 percent were admitted through the emergency room, trauma, or through some other service mandated by state and federal law. The others were admitted through various mechanisms; for example, for follow-up to a previous emergency visit.

In 1993, UCSD provided inpatient care costing between $27 million and $37 million to undocumented persons; $11 million to $15 million was not reimbursed.

In 1994, the County of San Diego reduced its contract with UCSD to provide emergency services to indigent patients by 50 percent, or a total of $5 million. The Board of Supervisors implemented this reduction based on County staff estimates that half of indigent patients receiving emergency care at UCSD Medical center were illegal immigrants, and that these costs should not be the burden of local government.

[From the San Diego (CA) Union Tribune, Sept. 30, 1995]

BILBRAY FIGHTS ILLEGAL-IMMIGRANT CARE PLAN THAT WOULD STIFF HOSPITALS

(By Stephen Green)

When Rep. Brian Bilbray, R-Imperial Beach, served on the San Diego County Board of Supervisors, he didn't mince words in telling President Clinton that the federal government should pay the entire cost of providing services to undocumented immigrants.

During a trip to San Diego, Clinton readily agreed, saying the county should just sent the tab to Washington.

Taking Clinton up on his offer, county officials calculated a bill totaling about $1 billion and mailed it to the White House. The amount, Bilbray recalled, represented the annual cost of providing medical, criminal justice and other public services to undocumented immigrants in San Diego County.

While Clinton may have agreed in principle, the bill never was paid. California's politicians still are trying to get the federal government to reimburse the state for the impact of illegal immigration.

Now, Bilbray, along with his colleagues in the House of Representatives from California and other border states, has won a modest victory concerning the long sought federal compensation.

The Medicaid reform bill produced by the House Commerce Committee would do something, for the first time, about the cost to states and local governments of providing emergency medical services to undocumented immigrants.

In California, emergency medical services to undocumented immigrants make up a sizable chunk of the state's Medicaid costs, Bilbray said.

As now written, the legislation recently approved by the Commerce Committee would exempt states from having to match—as they do now—the federal Medicaid money that goes to provide emergency medical services to undocumented immigrants.

So, on the surface, the bill to revamp the federal medical insurance program for the poor would seem to be a big money saver for California and the other states adversely affected by illegal immigration.

But there is a catch—and it's likely to be expensive.

The portion of hospitals' costs of giving emergency medical care to undocumented immigrants that now is financed by the states' contributions to Medicaid would have to be made up from someplace else.

As matters now stand, it appears that local hospitals would be stuck with the portion of the bills that heretofore have been picked up by the states.

That would translate into higher hospital costs, which probably would mean increasing the cost of hospital car for nonindigent patients.

House Commerce Committee Chairman Thomas J. Bliley Jr., R-Va., credits Bilbray and other panel members from California, Texas and Florida for gaining approval of the provisions easing the impact of illegal immigration on state finances.

But Bilbray is far from satisfied, saying the issue of costs to the hospitals must be addressed.

''I am continually hounding the federal government as the biggest deadbeat in the county,'' Bilbray said.

A meeting of House Republicans from California authorized Bilbray to continue the fight for complete reimbursement for emergency medical services.

Bilbray, who addressed the GOP delegation about the problem, said he and the two other GOP Commerce Committee members from the state—Reps. Carlos J. Moorhead of Glendale and Christopher Cox of Newport Beach—will carry the ball.

''I got all the support in the world from other delegation members to hang tough,'' Bilbray said.

When Medicare comes to the House floor as part of the omnibus budget reconciliation bill, Bilbray hopes to offer an amendment that would require the federal government—and taxpayers nationwide, not just Californians—to pick up the entire tab for the cost of emergency medical services to undocumented immigrants.

Winning this fight won't be easy. Procedural rules frequently make it difficult to amend reconciliation bills.

But Bilbray expects to have a key ally in this battle in the person of another Californian—Rep. David Dreier, R-San Dimas.

As a senior member of the House Rules Committee, Dreier will have a lot to say about the format for the Medicaid reform debate on the House floor.

Even if Bilbray is able to offer an amendment, there is no assurance it will be approved. But it seems a breach in the resistance to federal compensation finally has been made in the Medicaid reform bill. Other openings many follow.

It is the federal government's own failure to enforce the immigration laws that has resulted in fiscal adversity for California. It is clear to Bilbray and his allies that the federal government has an absolute obligation to remedy the problem that it has created.

Mr. TAUZIN. Mr. Chairman, while I am in support of Chapter 2 (FCC Authorization) of Subtitle A in Title III of H.R. 2491, the Seven-Year Balanced Budget Reconciliation Act of 1995, I would like to bring to the attention of my colleagues three concerns in the statutory language which I hope will be addressed in conference with the Senate.

First, Section 3017, giving the FCC the authority to reject tariffs, in whole or part, would disserve the public interest as it would inhibit the introduction of new services, impede competition, and complicate the FCC's processes by adding an additional unnecessary layer of regulation. Carriers seeking to introduce new services would be hesitant to introduce new services if the FCC were to put tariffs on public notice, invite opposition, and then reject them. Authority to reject part of a tariff, while requiring the carrier to continue to offer the service, is contrary to the concept of carrier-initiated rates.

This process of public notice and comment (including oppositions) before a service can be provided is followed with respect to Section 214 applications. The Section 214 process significantly inhibits telephone company provision of cable services; this provision would extend a similar obstacle to all common carrier services. This obstacle would similarly impede competition by slowing the introduction of services designed to respond to competition, and giving competitors an opportunity to use and/or abuse Commission processes and impose costs on other competitors.

This tariff rejection authority is unnecessary to protect ratepayers. The Communications Act already provides for hearings as to the lawfulness of new rates, terms and conditions; rates found unlawful can be suspended, and subject to an accounting order at the beginning of such proceedings. See 47 U.S.C. §204(a),(b). If the rates are later found to be unlawful, the accounting order permits refunds to be made. Notice and comment proceedings as to the lawfulness of tariffs add nothing to this ratepayer protection, and create an additional regulatory burden.

Secondly, in part because the Commission can order refunds for rates found to be unlawful, it is unnecessary to give the Commission authority to order refunds for rule violations which may affect rates, as proposed by Section 3018. Additionally, since there is no rate element necessarily involved nor an accounting order associated with application of rules to a particular rate, calculation of the impact on rates of any of the violations described (e.g., violations of depreciation and other accounting rules), is likely to be difficult and arbitrary. The provision essentially appears to serve as a device by which the Commission can intimidate carriers. This type of device is particularly unnecessary since common carriers are already subject to substantial forfeitures of $100,000 for each violation—up to $1,000,000. See 47 U.S.C. §503(a)(2)(B).

Finally, the legislation would amend Section 503(b)(6) of the Communications Act of 1934 (Section 3023) to extend the statute of limitations on forfeitures, and permit the Commission to impose forfeitures on common carriers even when discovered five years after the fact. This provision, intended to permit the Commission to impose forfeitures for rule violations discovered during audits, is unnecessary for two reasons. First, direct review of rates which would be affected by such violations is already available, as described above. Therefore, this provision adds little in the way of ratepayer protections. Additionally, such discriminatory treatment of common carriers is unwarranted.

The statute of limitations applicable to other entities subject to forfeiture authority is one year. It would be unnecessarily discriminatory to extend the period to five years for common carriers alone. Moreover, we recommend that the forfeiture authority itself be revised to end unnecessary discrimination against common carriers.

Presently, Section 503 of the Communications Act provides that broadcasters are subject to potential forfeitures of $25,000 for each violation, other parties $10,000, while common carriers are subject to potential forfeitures of $100,000. The legislative history of this provision suggests that the increased authority for common carriers was intended to permit the FCC to impose meaningful fines, in proportion to the size of the violator. Yet, there is no reason to discriminate between large non-common carriers, e.g. Time Warner (subject only to a $10,000 maximum) and small telephone companies (subject to a $100,000 maximum) on that basis. Accordingly, Section 503 should be amended to provide for a single dollar maximum for any type of entity—the FCC would still be permitted to tailor the fine as appropriate.

Additionally, we recommend that rather than being permitted to assess penalties for violations of the FCC-prescribed rate of depreciation, the FCC should not have the authority to regulate depreciation. In a competitive environment, carriers will need to depreciate assets at faster rates than allowed by the FCC. Under price regulation, a carrier has no incentive to depreciate assets faster than appropriate, since any additional booked costs do not permit the carrier to obtain a corresponding rate increase.

Mr. Speaker, I look forward to working on these issues in the next few weeks.

The CHAIRMAN. No further amendment is in order except the further amendment in the nature of a substitute consisting of the text of H.R. 2530, which may be offered only by the gentleman from Missouri [Mr. GEPHARDT] or his designee, is considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent of the amendment and is not subject to amendment.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ORTON

Mr. ORTON. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. ORTON:

H.R. 2530

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Common Sense Balanced Budget Act of 1995''.

(b) TABLE OF CONTENTS.—

TITLE I—ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Subtitle A—Energy

SEC. 1101. PRIVATIZATION OF URANIUM ENRICHMENT.

(a) REFERENCE.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(b) PRODUCTION FACILITY.—Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking ''or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology''.

(c) DEFINITIONS.—Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: ''and any successor corporation established through privatization of the Corporation'';

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

''(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

''(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

''(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

''(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.'';

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

''(18) The term 'transition date' means July 1, 1993.''; and

(4) by redesignating the unredesignated paragraph (14) as paragraph (19).

(d) EMPLOYEES OF THE CORPORATION.—

(1) PARAGRAPH (2).—Paragraphs (1) and (2) of section 1305(e) (42 U.S.C. 2297b–4(e)(1)(2)) are amended to read as follows:

''(A) IN GENERAL.—It is the purpose of this subsection to ensure that the privatization of the Corporation shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

''(B) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—The Corporation shall abide by the terms of the collective bargaining agreement in effect on the privatization date at each individual facility.''.

(2) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b–4(e)(4)) is amended—

(A) by striking ''AND DETAILEES'' in the heading;

(B) by striking the first sentence;

(C) in the second sentence, by inserting ''from other Federal employment'' after ''transfer to the Corporation''; and

(D) by striking the last sentence.

(e) MARKETING AND CONTRACTING AUTHORITY.—

(1) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(A) by amending the subsection heading to read ''MARKETING AUTHORITY.—''; and

(B) by striking the first sentence.

(2) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(A) in paragraph (2)(B), by adding at the end the following: ''The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract.''; and

(B) by adding at the end the following:

''(3) EFFECT OF TRANSFER.—

''(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

''(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

''(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.''.

(3) PRICING.—Section 1402 (42 U.S.C. 2297c–1) is amended to read as follows:

''SEC. 1402. PRICING.

''The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.''.

(4) LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

''(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

''(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

''(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

''(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

''(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

''(B) All low-level wastes and mixed wastes that the Department accepts for treatment,

storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

''(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

''(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.''.

(5) LIABILITIES.—

(A) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(i) by inserting ''AND PRIVATIZATION'' after ''TRANSITION'' in the heading; and

(ii) by adding at the end the following: ''As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.''.

(B) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(i) by inserting ''AND PRIVATIZATION'' after ''TRANSITION'' in the heading; and

(ii) by adding at the end the following: ''As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.''.

(C) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(i) by inserting ''AND PRIVATIZATION'' after ''TRANSITION'' in the heading; and

(ii) by striking ''the transition date'' and inserting ''the privatization date (or, in the event the privatization date does not occur, the transition date)''.

(6) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

''SEC. 1408. TRANSFER OF URANIUM.

''The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.''.

(f) PRIVATIZATION OF THE CORPORATION.—

(1) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

''SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

''(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

''(B) To undertake any and all activities as provided in its corporate charter.

''(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

''(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

''(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

''(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

''(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

''(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

''(iii) persons otherwise authorized by law to enter into such transactions;

''(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

''(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

''(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

''(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

''(A) all of the Corporation's assets, including all contracts, agreements, and leases, including all uranium enrichment contracts and power purchase contracts;

''(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

''(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B); and

''(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403.

''(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

''(5) TAX TREATMENT OF PRIVATIZATION.—

''(A) TRANSFER OF ASSETS OR MERGER.—No income, gain, or loss shall be recognized by any person by reason of the transfer of the Corporation's assets to, or the Corporation's merger with, the corporation established pursuant to subsection (a)(1) in connection with the privatization.

''(B) CANCELLATION OF DEBT AND COMMON STOCK.—No income, gain, or loss shall be recognized by any person by reason of any cancellation of any obligation or common stock of the Corporation in connection with the privatization.

''(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

''(c) LEGAL STATUS OF PRIVATE CORPORATION.—

''(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

''(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

''(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

''(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

''(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.''.

(2) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by paragraph (1)) is amended by adding at the end the following new section:

''SEC. 1504. OWNERSHIP LIMITATIONS.

''(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

''(b) APPLICATION.—Subsection (a) shall not apply—

''(1) to any employee stock ownership plan of the Corporation,

''(2) to underwriting syndicates holding shares for resale, or

''(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

''(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

''(1) in the public offering of securities of the Corporation in the implementation of the privatization,

''(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

''(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.''.

(3) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by paragraph (2)) is amended by adding at the end the following new section:

''SEC. 1505. EXEMPTION FROM LIABILITY.

''(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

''(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.''.

(4) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by paragraph (3)) is amended by adding at the end the following new section:

''SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

''(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

''(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.''.

(5) APPLICATION OF PRIVATIZATION PROCEEDS.—Chapter 25 (as amended by paragraph (4)) is amended by adding at the end the following new section:

''SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

''The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.''.

(6) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

''Sec. 1503. Establishment of private corporation.
''Sec. 1504. Ownership limitations.
''Sec. 1505. Exemption from liability.
''Sec. 1506. Resolution of certain issues.
''Sec. 1507. Application of privatization proceeds.''.

(7) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

''(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

''(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

''(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.''.

(8) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d–1(d)) is amended by striking ''less than 60 days after notification of the Congress'' and inserting ''less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)''.

(g) PERIODIC CERTIFICATION OF COMPLIANCE.—Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking ''ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1).'' and inserting ''PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.''.

(h) LICENSING OF OTHER TECHNOLOGIES.—Subsection (a) of section 1702 (42 U.S.C. 2297f–1(a)) is amended by striking ''other than'' and inserting ''including''.

(i) CONFORMING AMENDMENTS.—

(1) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—

(A) REPEALS.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(i) Section 1202.
(ii) Sections 1301 through 1304.
(iii) Sections 1306 through 1316.
(iv) Sections 1404 and 1405.
(v) Section 1601.
(vi) Sections 1603 through 1607.

(B) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(2) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:

(A) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the ''United States Enrichment Corporation'' shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by subsection (f)(1)).

(B) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by striking ''the United States'' and all that follows through the period and inserting ''the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.''.

(C) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102–486.

(3) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b–4) is amended—

(A) by repealing subsections (a), (b), (c), and (d), and

(B) in subsection (e)—

(i) by striking the subsection designation and heading,

(ii) by redesignating paragraphs (1) and (2) (as added by subsection (d)(1)) as subsections (a) and (b) and by moving the margins 2-ems to the left,

(iii) by striking paragraph (3), and

(iv) by redesignating paragraph (4) (as amended by subsection (d)(2)) as subsection (c), and by moving the margins 2-ems to the left.

SEC. 1102. MAKING PERMANENT NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Paragraph (3) of section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is repealed.

SEC. 1103. COGENERATION.

Section 804(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)(B)) is amended by striking '', excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities''.

SEC. 1104. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner which reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) AMOUNT OF FEES.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

Subtitle B—Central Utah

SEC. 1121. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: ''The Secretary of the Interior shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under such terms and conditions as the Secretary deems appropriate to protect the interest of the United States, which shall be similar to the terms and conditions contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002.''.

Subtitle C—Army Corps of Engineers

SEC. 1131. REGULATORY PROGRAM FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the ''Army Civil Works Regulatory Program Fund'' (hereinafter in this section referred to as the ''Regulatory Program Fund'') into which shall be deposited fees collected by the

Secretary of the Army pursuant to subsection (b). Amounts deposited into the Regulatory Program Fund are authorized to be appropriated to the Secretary of the Army to cover a portion of the expenses incurred by the Department of the Army in administering laws pertaining to the regulation of the navigable waters of the United States, including wetlands.

(b) REGULATORY FEES.—

(1) COLLECTION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall establish fees for the evaluation of commercial permit applications, for the recovery of costs associated with the preparation of environmental impact statements required by the National Environmental Policy Act of 1969, and for the recovery of costs associated with wetlands delineations for major developments affecting wetlands. The Secretary shall collect such fees and deposit amounts collected pursuant to this paragraph into the Regulatory Program Fund.

(2) FEES.—The fees described in paragraph (1) shall be established by the Secretary of the Army at rates that will allow for the recovery of receipts at amounts sufficient to cover the costs for which the fees are established under paragraph (1).

Subtitle D—Helium Reserve

SEC. 1141. SALE OF HELIUM PROCESSING AND STORAGE FACILITY.

(a) SHORT TITLE.—This section may be cited as the ''Helium Act of 1995''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

(c) AUTHORITY OF SECRETARY.—Sections 3, 4, and 5 are amended to read as follows:

''SEC. 3. AUTHORITY OF SECRETARY.

''(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—(1) The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary. The Secretary may grant leasehold rights to any such helium. The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium. Such agreements may be subject to such rules and regulations as may be prescribed by the Secretary.

''(2) Any agreement under this subsection shall be subject to the existing rights of any affected Federal oil and gas lessee. Each such agreement (and any extension or renewal thereof) shall contain such terms and conditions as deemed appropriate by the Secretary.

''(3) This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence at the enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after such date.

''(b) STORAGE, TRANSPORTATION, AND SALE.—The Secretary is authorized to store, transport, and sell helium only in accordance with this Act.

''(c) MONITORING AND REPORTING.—The Secretary is authorized to monitor helium production and helium reserves in the United States and to periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

''SEC. 4. STORAGE AND TRANSPORTATION OF CRUDE HELIUM.

''(a) STORAGE AND TRANSPORTATION.—The Secretary is authorized to store and transport crude helium and to maintain and operate existing crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

''(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Effective one year after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining, and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except those activities described in subsection (a).

''(c) DISPOSAL OF FACILITIES.—(1) Within one year after the date of enactment of the Helium Act of 1995, the Secretary shall dispose of all facilities, equipment, and other real and personal property, together with all interests therein, held by the United States for the purpose of producing, refining, and marketing refined helium. The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

''(2) All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f). All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

''(3) Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium.

''(d) EXISTING CONTRACTS.—All contracts which were entered into by any person with the Secretary for the purchase by such person from the Secretary of refined helium and which are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the facilities referred to in subsection (c) are disposed of. Any costs associated with the termination of such contracts shall be paid from the helium production fund established under section 6(f).

''SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

''Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary is authorized and directed to impose fees on such person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal. All such fees received by the Secretary shall be treated as moneys received under this Act for purposes of section 6(f).''.

(d) SALE OF CRUDE HELIUM.—Section 6 is amended as follows:

(1) Subsection (a) is amended by striking out ''from the Secretary'' and inserting ''from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary''.

(2) Subsection (b) is amended by inserting ''crude'' before ''helium'' and by adding the following at the end thereof: ''Except as may be required by reason of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.''.

(3) Subsection (c) is amended by inserting ''crude'' before ''helium'' after the words ''Sales of'' and by striking ''together with interest as provided in this subsection'' and all that follows down through the period at the end of such subsection and inserting the following: ''all funds required to be repaid to the United States as of October 1, 1994 under this section (hereinafter referred to as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:

''(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

''(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1994.''.

(4) Subsection (d) is amended to read as follows:

''(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.''.

(5) Subsection (e) is repealed.

(6) Subsection (f) is amended by inserting ''(1)'' after ''(f)'' and by adding the following at the end thereof:

''(2) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1). Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.''.

(e) ELIMINATION OF STOCKPILE.—Section 8 is amended to read as follows:

''SEC. 8. ELIMINATION OF STOCKPILE.

''(a) REVIEW OF RESERVES.—Not later than January 1, 2014 the Secretary shall review the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) at that time.

''(b) RESERVES BELOW 1 BCF IN 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are less than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million cubic feet (mcf) by January 1, 2019. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection. The price for all such sales, as determined by the Secretary in consultation with the helium industry, shall be such as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c) by the year 2019 with minimum market disruption. The date specified in this subsection for completion of such sales and for repayment of debt may be extended by the Secretary for a period of not to exceed 5 additional years if necessary in order to assure repayment of such debt with minimum market disruption.

''(c) RESERVES ABOVE 1 BCF IN 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves

(other than federally owned helium stored at the Cliffside Reservoir) are more than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million cubic feet (mcf) by January 1, 2024. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum disruption of the market for crude helium.

''(d) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves after the year 2014 shall not affect the duty of the Secretary to make sales of helium as provided in subsection (b) or (c), as the case may be.''.

(f) REPEAL OF AUTHORITY TO BORROW.—Sections 12 and 15 are repealed.

Subtitle E—Territories

SEC. 1151. TERMINATION OF ANNUAL DIRECT ASSISTANCE TO NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—No annual payment may be made under section 701, 702, or 704 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), for any fiscal year beginning after September 30, 1995.

(b) ELIMINATION OF 7-YEAR EXTENSIONS.—

(1) IN GENERAL.—The Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note), is amended by striking sections 3 and 4.

(2) CONFORMING CHANGES.—(A) Section 5 of the Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note) is redesignated as section 3.

(B) Section 3 of such Act, as redesignated by subparagraph (A) of this paragraph, is amended—

(i) by striking ''agreement identified in section 3 of this Act'' and inserting ''Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed June 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands''; and

(ii) by striking ''Interior and Insular Affairs'' and inserting ''Resources''.

TITLE II—AGRICULTURAL PROGRAMS

SEC. 2001. SHORT TITLE.

This title may be cited as the ''Agricultural Reconciliation Act of 1995''.

Subtitle A—Extension and Modification of Various Commodity Programs

SEC. 2101. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR WHEAT THROUGH 2002.

(a) AGRICULTURAL ACT OF 1949.—Section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a) is amended—

(1) in the section heading by striking ''**1995**'' and inserting ''**2002**'';

(2) in subsections (a)(1), (a)(4)(C), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(3)(A), (e)(3)(C)(iii), (f)(1), (q), by striking ''1995'' each place it appears and inserting ''2002'';

(3) in the heading of subsection (c)(1)(B)(ii), by striking ''AND 1995'' and inserting ''THROUGH 2002'';

(4) in subsection (c)(1)(B)(ii), by striking ''and 1995'' and inserting ''through 2002'';

(5) in subsection (c)(1)(E)(vii), by striking ''1997'' and inserting ''2002'';

(6) in the heading of subsection (e)(1)(G), by striking ''1995'' and inserting ''2002''; and

(7) in subsection (g)(1), by striking ''and 1995'' and inserting ''through 2002''.

(b) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1(i)) is amended by striking ''1995'' both places it appears and inserting ''2002''.

(c) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1996, through May 31, 2003.

(d) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(e) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled ''A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended'', approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(f) NONAPPLICABILITY OF SECTION 107 OF AGRICULTURAL ACT OF 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

SEC. 2102. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR FEED GRAINS THROUGH 2002.

(a) AGRICULTURAL ACT OF 1949.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(1) in the section heading, by striking ''**1995**'' and inserting ''**2002**'';

(2) in subsections (a)(1), (a)(4)(C), (a)(6), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(1)(H), (e)(2)(H), (e)(3)(A), (e)(3)(C)(iii), (f)(1), (p)(1), (q)(1), and (r), by striking ''1995'' each place it appears and inserting ''2002'';

(3) in the heading of subsection (c)(1)(B)(ii), by striking ''AND 1995'' and inserting ''THROUGH 2002'';

(4) in subsection (c)(1)(B)(ii), by striking ''and 1995'' and inserting ''through 2002'';

(5) in subsection (c)(1)(E)(vii), by striking ''1997'' and inserting ''2002'';

(6) in the headings of subsections (e)(1)(G) and (e)(1)(H), by striking ''1995'' both places it appears and inserting ''2002''; and

(7) in subsection (g)(1), by striking ''and 1995'' and inserting ''through 2002''.

(b) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e–1) is amended by striking ''1996'' and inserting ''2002''.

(c) NONAPPLICABILITY OF SECTION 105 OF AGRICULTURAL ACT OF 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

SEC. 2103. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR COTTON THROUGH 2002.

(a) EXTRA LONG STAPLE COTTON.—Section 103(h)(16) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended by striking ''1996'' and inserting ''2003''.

(b) UPLAND COTTON.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended—

(1) in the section heading, by striking ''**1997**'' and inserting ''**2002**'';

(2) in subsections (a)(1), (b)(1), (c)(1)(A), (c)(1)(B)(ii), (c)(1)(D)(v)(II), and (o), by striking ''1997'' each place it appears and inserting ''2002'';

(3) in the heading of subsection (c)(1)(D)(v)(II), by striking ''1997 CROPS'' and inserting ''2002 CROPS'';

(4) in subsection (e)(1)(D), by striking ''the 1997 crop'' and inserting ''each of the 1997 through 2002 crops'';

(5) in subsections (e)(3)(A) and (f)(1), by striking ''1995'' each place it appears and inserting ''2002''; and

(6) in subparagraphs (B)(i), (D)(i), (E)(i), and (F)(i) of subsection (a)(5), by striking ''1998'' each place it appears and inserting ''2003''.

(c) COTTONSEED AND COTTONSEED OIL.—Section 203(b) of the Agricultural Act of 1949 (7 U.S.C. 1446d(b)) is amended by striking ''1995'' and inserting ''2002''.

(d) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended by striking ''1995'' each place it appears and inserting ''2002''.

(e) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(f) SUSPENSION OF MISCELLANEOUS COTTON PROVISIONS.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(g) PRELIMINARY ALLOTMENTS FOR 2003 CROP OF UPLAND COTTON.—Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 2003 crop.

(h) COTTON CLASSIFICATION SERVICES.—The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the ''Cotton Statistics and Estimates Act'') (chapter 337; 7 U.S.C. 473a), is amended by striking ''1996'' and inserting ''2002''.

SEC. 2104. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR RICE THROUGH 2002.

Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441–2) is amended—

(1) in the section heading, by striking ''**1995**'' and inserting ''**2002**'';

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking ''1995'' each place it appears and inserting ''2002'';

(3) in subsection (a)(5)(D)(i), by striking ''1996'' and inserting ''2001'';

(4) in the heading of subsection (c)(1)(B)(ii), by striking ''AND 1995'' and inserting ''THROUGH 2002'';

(5) in subsection (c)(1)(B)(ii), by striking ''and 1995'' and inserting ''through 2002'';

(6) in subsection (c)(1)(D)(v)(II), by striking ''1997'' and inserting ''2002''; and

(7) in the heading of subsection (c)(1)(D)(v)(II), by striking ''1997 CROPS'' and inserting ''2002 CROPS''.

SEC. 2105. EXTENSION OF LOANS AND PAYMENTS FOR OILSEEDS THROUGH 2002.

Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended—

(1) in the section heading, by striking ''**1995**'' and inserting ''**2002**'';

(2) in subsections (b), (c), (e)(1), and (n), by striking ''1995'' each place it appears and inserting ''2002''; and

(3) in subsections (c) and (h)(2), by striking ''1997'' each places it appears and inserting ''2002''.

SEC. 2106. INCREASE IN FLEX ACRES.

(a) WHEAT.—Subsection (c)(1)(C)(ii) of section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a) is amended by striking ''85 percent'' and inserting ''85 percent (through the 1995 crop of wheat) and 77 percent (for the 1996 through 2002 crops)''.

(b) FEED GRAINS.—Subsection (c)(1)(C)(ii) of section 105B of such Act (7 U.S.C. 1444f) is

amended by striking ''85 percent'' and inserting ''85 percent (through the 1995 crop) and 77 percent (for the 1996 through 2002 crops)''.

(c) UPLAND COTTON.—Subsection (c)(1)(C)(ii) of section 103B of such Act (7 U.S.C. 1444–2) is amended by striking ''85 percent'' and inserting ''85 percent (through the 1995 crop of upland cotton) and 77 percent (for the 1996 through 2002 crops)''.

(d) RICE.—Subsection (c)(1)(C)(ii) of section 101B of such Act (7 U.S.C. 1441–2) is amended by striking ''85 percent'' and inserting ''85 percent (through the 1995 crop of rice) and 77 percent (for the 1996 through 2002 crops)''.

SEC. 2107. REDUCTION IN 50/85 AND 0/85 PROGRAMS.

(a) RICE.—Section 101B(c)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1441–2(c)(1)(D)) is amended—

(1) in the subparagraph heading, by striking ''50/85 PROGRAM'' and inserting ''50/80 PROGRAM''; and

(2) in clause (i), by striking ''8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops'' both places it appears and inserting ''20 percent for each of the 1996 through 2002 crops''.

(b) COTTON.—Section 103B(c)(1)(D) of such Act (7 U.S.C. 1444–2(c)(1)(D)) is amended—

(1) in the subparagraph heading, by striking ''50/85 PROGRAM'' and inserting ''50/80 PROGRAM''; and

(2) in clause (i), by striking ''8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops'' both places it appears and inserting ''20 percent for each of the 1996 through 2002 crops''.

(c) FEED GRAINS.—Section 105B(c)(1)(E) of such Act (7 U.S.C. 1444f(c)(1)(E)) is amended—

(1) in the subparagraph heading, by striking ''0/85 PROGRAM'' and inserting ''0/80 PROGRAM''; and

(2) in clause (i), by striking ''8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops'' both places it appears and inserting ''20 percent for each of the 1996 through 2002 crops''.

(d) WHEAT.—Section 107B(c)(1)(E) of such Act (7 U.S.C. 1445–3a(c)(1)(E)) is amended—

(1) in the subparagraph heading, by striking ''0/85 PROGRAM'' and inserting ''0/80 PROGRAM''; and

(2) in clause (i), by striking ''8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops'' both places it appears and inserting ''20 percent for each of the 1996 through 2002 crops''.

(e) EFFECT OF AMENDMENTS ON PRIOR CROP YEARS.—Sections 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), and 107B(c)(1)(E) of the Agricultural Act of 1949, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 1991 through 1995 crops covered by such sections.

Subtitle B—Sugar

SEC. 2201. EXTENSION AND MODIFICATION OF SUGAR PROGRAM.

(a) ASSURANCE OF SUGAR SUPPLY.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g, et seq.) is amended to read as follows:

''SEC. 206. ASSURANCE OF SUGAR SUPPLY.

''(a) IN GENERAL.—The price of each crop of sugar beets and sugarcane, respectively, shall be supported in accordance with this section.

''(b) SUGARCANE.—Subject to subsection (d), the Secretary shall support the price of domestically grown sugarcane through loans at 18 cents per pound for raw cane sugar.

''(c) SUGAR BEETS.—Subject to subsection (d), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

''(d) ADJUSTMENT IN SUPPORT LEVEL.—

''(1) DOWNWARD ADJUSTMENT IN SUPPORT LEVEL.—

''(A) IN GENERAL.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the price determined for the preceding crop, as established under this section, if negotiated reductions in export subsidies and domestic subsidies provided for sugar of the European Union and other major sugar growing, producing, and exporting countries ('major countries') in the aggregate exceed the commitments made as part of the Uruguay Round Agreements.

''(B) EXTENT OF REDUCTION.—The Secretary shall not reduce the support price under this section below a level that provides an equal measure of support to that provided by any other major country or customs union based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture referenced in 19 U.S.C. 3511(d)(2).

''(C) MAJOR COUNTRIES.—For purposes of this subsection, the term 'major countries' includes all countries allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 of chapter 17 of the Harmonized Tariff Schedule, all countries of the European Union, and the People's Republic of China.

''(2) INCREASES IN SUPPORT LEVEL.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

''(e) LOAN TYPE; PROCESSOR ASSURANCES.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

''(2) MODIFICATION.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is set at, or is increased to, a level that exceeds the minimum level for such imports committed to by the United States under the Agreement on Agriculture contained in the Uruguay Round of Agreements of the General Agreement on Tariffs and Trade, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during such fiscal year shall be modified by the Secretary into a nonrecourse loan.

''(3) PROCESSOR ASSURANCES.—In order to effectively support the prices of sugar beets and sugarcane received by the producer, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or modify recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

''(f) ANNOUNCEMENTS.—In order to ensure the efficient administration of the program under this section and the effective support of the price of sugar, the Secretary shall announce the type of loans available and the loan rates for beet sugar and cane sugar for any fiscal year under this section as far in advance as is practicable.

''(g) LOAN TERM.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (h), loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

''(2) EXTENSION.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, upon written request to the Commodity Credit Corporation. The maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

''(h) SUPPLEMENTARY LOANS.—Subject to subsection (d), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

''(1) be made at the loan rate in effect at the time the second loan is made; and

''(2) mature in not more than 9 months less the quantity of time that the first loan was in effect.

''(i) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

''(j) MARKETING ASSESSMENTS.—The following assessments shall be collected with respect to all sugar marketed within the United States during the 1996 through 2003 fiscal years:

''(1) BEET SUGAR.—The first seller of beet sugar produced from sugar beets or sugar beet molasses, or refined sugar refined outside of the United States, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1794 percent of the loan level established under subsection (b) per pound of sugar marketed.

''(2) CANE SUGAR.—The first seller of raw cane sugar produced from sugarcane or sugarcane molasses, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1 percent of the loan level established under subsection (b) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

''(3) COLLECTION.—

''(A) TIMING.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation within 30 days of the date that the sugar is marketed.

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

''(4) PENALTIES.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

''(A) the quantity of sugar involved in the violation; by

''(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

''(5) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

''(6) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection.

''(k) INFORMATION REPORTING.—

''(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

''(2) DUTY OF PRODUCERS TO REPORT.—In order to efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

''(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

''(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

''(l) SUGAR ESTIMATES.—

''(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States equal to Total Estimated Disappearance minus the quantity of sugar that will be available from carry-in stocks.

''(2) TOTAL DISAPPEARANCE.—For the purposes of this subsection, the term ''Total Estimated Disappearance'' means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) plus the quantity of sugar that would provide for adequate carryover stocks.

''(3) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.

''(m) DEFINITION OF MARKET.—For purposes of this section, the term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and deliver to a buyer.

''(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.''.

(b) CONFORMING AMENDMENT.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

Subtitle C—Peanuts

SEC. 2301. EXTENSION OF PRICE SUPPORT PROGRAM FOR PEANUTS AND RELATED PROGRAMS.

(a) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(1) in the section heading, by striking ''**1997**'' and inserting ''**2002**'';

(2) in subsection (a)(1), (a)(2), (b)(1), and (h), by striking ''1997'' each place it appears and inserting ''2002''; and

(3) in subsection (g)(1), by striking ''1997 crops'' the first place it appears and inserting ''2002 crops''.

(b) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

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

(A) in the section heading, by striking ''**1997**'' and inserting ''**2002**'';

(B) in subsection (a)(3), by striking ''1990'' and inserting ''1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years'';

(C) in subsection (b)(1)(A)—

(i) by striking ''1997'' and inserting ''2002''; and

(ii) in clause (i), by inserting before the semicolon the following: '', for the 1991 through 1995 marketing years, and the 1995 marketing year, for the 1996 through 2002 marketing years''; and

(D) in subsections (b)(1)(B), (b)(2)(A), (b)(2)(C), (b)(3)(A), and (f), by striking ''1997'' each place it appears and inserting ''2002'';

(2) in section 358b (7 U.S.C. 1358b)—

(A) in the section heading, by striking ''**1995**'' and inserting ''**2002**''; and

(B) in subsection (c), by striking ''1995'' and inserting ''2002'';

(3) in section 358c(d) (7 U.S.C. 1358c(d)), by striking ''1995'' and inserting ''2002''; and

(4) in section 358e (7 U.S.C. 1359a)—

(A) in the section heading, by striking ''**1997**'' and inserting ''**2002**''; and

(B) in subsection (i), by striking ''1997'' and inserting ''2002''.

(c) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title VIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3459) is amended—

(1) in section 801 (104 Stat. 3459), by striking ''1995'' and inserting ''2002'';

(2) in section 807 (104 Stat. 3478), by striking ''1995'' and inserting ''2002''; and

(3) in section 808 (7 U.S.C. 1441 note), by striking ''1995'' and inserting ''2002''.

SEC. 2302. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS.

(a) ESTABLISHMENT.—Subsection (a)(1) of section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended to read as follows:

''(1) ESTABLISHMENT.—The national poundage quota for peanuts for each of the 1991 through 2002 marketing years shall be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible and related uses. Beginning with the 1996 marketing year, the Secretary shall exclude seed uses from the estimate of domestic edible and related uses, but shall include the estimated quantity of peanuts and peanut products to be imported into the United States for the marketing year for which the quota is being established.''.

(b) EXCLUSIONS FROM FARM POUNDAGE QUOTA.—Subsection (b) of such section is amended—

(1) in paragraph (1)(B), by striking clauses (i) and (ii) and inserting the following new clauses:

''(i) through the 1995 marketing year, any increases for undermarketings from previous years; or

''(ii) through the 2002 marketing year, any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).''; and

(2) in paragraph (3)(B), by striking clauses (i) and (ii) and inserting the following new clauses:

''(i) through the 1995 marketing year, any increases for undermarketings of quota peanuts from previous years; or

''(ii) through the 2002 marketing year, any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).''.

(c) TEMPORARY QUOTA ALLOCATION.—Subsection (b)(2) of such section is amended—

(1) in subparagraph (A), by striking ''subparagraph (B) and subject to''; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) TEMPORARY QUOTA ALLOCATION.—

''(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph. The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted under regulations prescribed by the Secretary. The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited for the applicable marketing year only, in total to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

''(ii) CONDITION ON ALLOCATION.—The allocation of quota pounds to producers under this subparagraph shall be performed in such a manner so that such allocation will not result in a net decrease in the farm poundage quota for a farm in excess of 3 percent, after temporary seed quota is added, from the basic farm quota in 1996. Such decrease shall occur one time only and shall be applicable to the 1996 marketing year only.

''(iii) TERM OF PROVISION.—Application of this subparagraph may continue so long as doing so does not result in increased cost to the Commodity Credit Corporation by displacement of quota peanuts by additional peanuts in the domestic market, increased losses in the Association loan pools, or other such increases in cost.

''(iv) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section shall alter or change in any way the requirements regarding the use of quota and additional peanuts established by section 359a(b) of the Agricultural Act of 1949 (7 U.S.C. 1359a(b)), as added by section 804 of the Food, Agriculture, Conservation, and Trade Act of 1990.''.

(d) QUOTA CONSIDERED PRODUCED.—Subsection (b)(4) of such section is amended to read as follows:

''(4) QUOTA CONSIDERED PRODUCED.—

''(A) NATURAL DISASTER.—For purposes of this subsection, the farm poundage quota shall be considered produced on a farm if the farm poundage quota was not produced on the farm because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, as determined by the Secretary.

''(B) LEASE OR RELEASE OF QUOTA.—Such farm poundage quota shall also be considered produced on a farm if the farm poundage quota was either leased to another owner or operator of a farm within the same county for transfer to such farm for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made or the farm poundage quota was released voluntarily under paragraph (7) for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made. The farm poundage quota leased or released under this subparagraph shall be considered produced for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made. The farm shall not receive considered produced credit for more than 1 marketing year

out of the 3 immediately preceding marketing years under the options in this subparagraph.''.

(e) ALLOCATION OF QUOTAS REDUCED OR RELEASED TO FARMS WITHOUT QUOTAS.—Subsection (b)(6) of such section is amended to read as follows:

''(6) ALLOCATION OF QUOTAS REDUCED OR RELEASED.—

''(A) IN GENERAL.—The total quantity of the farm poundage quotas reduced or voluntarily released from farms in a State for any marketing year under paragraphs 3 and (5) shall be allocated under subparagraph (B), as the Secretary may by regulation prescribe, to other farms in the State on which peanuts were produced in at least 2 of the 3 crop years immediately preceding the year for which the allocation is being made.

''(B) SET-ASIDE FOR FARMS WITH NO QUOTA.—The total amount of farm poundage quota to be allocated in the State under subparagraph (A) shall be allocated to farms in the State for which no farm poundage quota was established for the immediately preceding year's crop. The allocation to any such farm shall not exceed the average farm production of peanuts for the 3 immediately preceding years during which peanuts were produced on the farm. Any farm quota pounds remaining after allocation to farms under this subparagraph shall be allocated to farms in the State on which poundage quotas were established for the immediately preceding crop year.''.

(f) TRANSFER OF ADDITIONAL PEANUTS.—Subsection (b) of such section is amended by striking paragraphs (8) and (9) and inserting the following new paragraph:

''(8) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested and marketed may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide, except that the poundage of such peanuts so transferred shall not exceed the difference in the total peanuts meeting quality requirements for domestic edible use as determined by the Secretary marketed from the farm and the total farm poundage quota, excluding quota pounds transferred to the farm in the fall. Peanuts transferred under this paragraph shall be supported at a total of not less than 70 percent of the quota support rate for the marketing years in which such transfers occur and such transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.''.

SEC. 2303. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA.

(a) TRANSFERS AUTHORIZED UNDER CERTAIN CIRCUMSTANCES.—Subsection (a) of section 358b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b) is amended—

(1) in paragraph (1)—

(A) by striking ''(including any applicable under marketings)'' both places it appears;

(B) in subparagraph (A), by striking ''undermarketings and''; and

(C) by adding at the end the following new sentences: ''In the case of a fall transfer only, poundage quota from a farm may be leased to another owner or operator of a farm within the same county or to another owner or operator of a farm in any other county within the State. Fall transfers of quota pounds shall not affect the farm quota history for the transferring or receiving farm and shall not result in reducing the farm poundage quota on the transferring farm.'';

(2) by striking paragraph (2) and inserting the following new paragraph:

''(2) TRANSFERS TO OTHER SELF-OWNED FARMS.—The owner or operator of a farm may transfer all or any part of the farm poundage quota for the farm to any other farm owned or controlled by the owner or operator that is in the same county or any other county within the same State and that had a farm poundage quota for the preceding crop year, if both the transferring and the receiving farms were under the control of the owner or operator for at least 3 crop years prior to the crop year in which the farm poundage quota is transferred. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if sufficient acreage is planted on the receiving farm to produce the quota pounds transferred.'';

(3) in paragraph (3), by striking ''(including any applicable undermarketings)''; and

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

''(4) TRANSFERS BY SALE IN STATES HAVING QUOTAS OF 10,000 TONS OR MORE.—Subject to such terms and conditions as the Secretary may prescribe, the owner, or operator with permission of the owner, of any farm for which a farm quota has been established and which is located in a State having a quota of 10,000 tons or more may sell poundage quota to any other eligible owner or operator of a farm within the same State. The Secretary shall ensure that no more than 15 percent of the total poundage quota within a county as of January 1, 1996, is sold and transferred in 1996 under this paragraph and that no more than 5 percent of the quota pounds remaining in a county as of January 1 in each of the next 4 years are sold and transferred in any such year. Notwithstanding any other provision of this paragraph, no more than 30 percent of the total poundage quota within a county may be sold and transferred. Quota pounds sold and transferred under this paragraph may not be leased or sold from the farm to which transferred to another farm owner or operator within the same State for a period of 5 years following the original transfer to the farm.''.

(b) CONDITIONS.—Subsection (b) of such section is amended—

(1) in paragraph (1), by inserting before the period at the end the following: '', except that no such agreement shall be necessary in the event of fall lease, if the operator had the lienholder's agreement for a previous spring cash lease''; and

(2) by striking paragraph (3) and inserting the following new paragraph:

''(3) RECORD.—No transfer of the farm poundage quota shall be effective until a record thereof is filed with the county committees of the counties from which transferred and to which transferred and the committees determine that the transfer complies with this section.''.

SEC. 2304. PENALTY FOR REENTRY OF EXPORTED PEANUT PRODUCTS.

Section 358e(d)(6)(A) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(d)(6)(A)) is amended by inserting ''or peanut products manufactured from additional peanuts'' after ''any additional peanuts''.

SEC. 2305. PRICE SUPPORT PROGRAM FOR PEANUTS.

(a) SUPPORT RATES.—Subsection (a)(2) Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(1) by striking ''any increase'' and inserting ''any increase or decrease''; and

(2) by striking '', except that'' and all that follows through ''preceding crop'' and inserting the following: ''In no event shall the national average quota support rate be increased by more than 5 percent of the national average quota support rate for the preceding crop. In no event shall the national average quota support rate be decreased by more than 5 percent of the national average quota support rate for the preceding crop.''.

(b) SPECIAL RULE REGARDING NEW MEXICO POOLS.—Subsection (c)(2)(A) of such section is amended by inserting after the first sentence the following new sentence: ''Peanuts physically produced outside the State of New Mexico shall not be eligible for entry into or participation in the New Mexico pools even though the farm on which the peanuts are produced is considered to be a New Mexican farm for administrative purposes.''.

(c) LOSSES IN AREA QUOTA POOLS.—Subsection (d)(2) of such section is amended—

(1) by redesignating subparagraph (B) as subparagraph (D);

(2) by inserting after subparagraph (A) the following new paragraphs:

''(B) REDUCTION OF GAINS OF OTHER PRODUCERS IN SAME POOL.—If use of the authority provided in subparagraph (A) is not sufficient to cover losses in an area quota pool, the additional losses shall be offset by reducing the gain of any producer in such pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and export edible use.

''(C) USE OF MARKETING ASSESSMENTS.—If use of the authority provided in subparagraphs (A) and (B) is not sufficient to cover losses in area quota pools, the Secretary shall use funds collected under subsection (g) to offset such losses. At the end of each year, the Secretary shall deposit in the Treasury those funds collected under subsection (g) that the Secretary determines are not required to cover losses in area quota pools for that year.''; and

(3) in subparagraph (D), as redesignated by paragraph (1), by adding at the end the following new sentence: ''This subparagraph shall apply only to the extent that use of the authority provided in subparagraphs (A), (B), and (C) is not sufficient to cover losses in an area quota pool.''.

(d) COMPLIANCE WITH QUALITY STANDARDS.—Subsection (f)(2) of such section is amended to read as follows:

''(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts in the domestic market, including peanuts imported into the United States, meet all United States quality standards under Marketing Agreement No. 146 and that importers of such peanuts fully comply with inspection, handling, storage, and processing requirements implemented under Marketing Agreement No. 146. The Secretary shall ensure that peanuts produced for the export market meet quality, inspection, handling, storage, and processing requirements under Marketing Agreement No. 146.''.

(e) ASSESSMENT RATES.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking ''1.15 percent'' the first place it appears and all that follows through the period at the end of such paragraph and inserting ''and 1.2 percent for the 1996 through 2002 crops, of the applicable support rate under this subsection.'';

(2) in paragraph (2)(A)(i)—

(A) by inserting ''and'' at the end of subclause (II); and

(B) by striking subclauses (III) and (IV) and inserting the following new subclause:

''(III) in the case of each of the 1996 through 2002 crops, .6 percent of the applicable national average support rate;''; and

(3) in paragraph (2)(A)(ii)—

(A) by striking ''and'' at the end of subclause (I);

(B) in subclause (II), by striking ''through 1997 crops'' and inserting ''and 1995 crops''; and

(C) by adding at the end the following new subclause:

''(III) in the case of each of the 1996 through 2002 crops, .6 percent of the applicable national average support rate; and''.

(f) ASSESSMENT ON IMPORTS.—Subsection (g) of such section is further amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

''(3) IMPORTS.—Each importer of peanuts produced outside of the United States and imported into the United States after the date of the enactment of this paragraph shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to the product obtained by multiplying the number of pounds of peanuts imported by the importer by 1.2 percent of the national average support rate for additional peanuts.''.

SEC. 2306. REFERENDUM REGARDING POUNDAGE QUOTAS.

Section 358–1(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 13581(d)) is amended by striking paragraph (1) and inserting the following new paragraph:

''(1) IN GENERAL.—Each calendar year, the Secretary shall conduct a referendum of producers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether the producers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the seven calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the producers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the next six years of the period. In the case of the referendum required in 1995, the Secretary shall conduct the referendum as soon as practicable after the date of the enactment of the Agricultural Reconciliation Act of 1995. In the case of any referendum required in calendar years 1996 through 2002, the Secretary shall conduct the referendum not later than December 15 of the calendar year in which the referendum is required.''.

SEC. 2307. REGULATIONS.

The Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title. In issuing the regulations, the Secretary—

(1) is encouraged to comply with subchapter II of chapter 5 of title 5, United States Code;

(2) shall provide public notice through the Federal Register of any such proposed regulations; and

(3) shall allow adequate time for written public comment prior to the formulation and issuance of any final regulations.

Subtitle D—Tobacco

SEC. 2401. ELIMINATION OF FEDERAL BUDGETARY OUTLAYS FOR TOBACCO PROGRAMS.

Section 106(g)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445(g)(1)) is amended—

(1) by striking ''1998'' and inserting ''2002''; and

(2) by inserting after ''equal to'' the following: ''a pro rata share of the total amount of the costs of other Department of Agriculture programs related to tobacco production or processing that are not required to be covered by user fees or by contributions or assessments under section 106A(d)(1) or 106B(d)(1), but in no event less than''.

SEC. 2402. ESTABLISHMENT OF FARM YIELD FOR FLUE-CURED TOBACCO BASED ON INDIVIDUAL FARM PRODUCTION HISTORY.

(a) METHOD OF DETERMINING FARM ACREAGE ALLOTMENTS.—Subsection (a) of section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by striking paragraphs (2) through (8) and inserting the following new paragraphs:

''(2) FARM ACREAGE ALLOTMENTS.—The term 'farm acreage allotment' for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by dividing the farm marketing quota by the farm yield.

''(3) FARM YIELD.—The term 'farm yield' means the yield per acre for a farm determined according to regulations issued by the Secretary and which would be expected to result in a quality of tobacco acceptable to the tobacco trade.

''(4) FARM MARKETING QUOTA.—

''(A) IN GENERAL.—The term 'farm marketing quota' for a farm for a marketing year means a number that is equal to the number of pounds of tobacco determined by multiplying—

''(i) the farm marketing quota for the farm for the previous marketing year (prior to any adjustment for undermarketing or overmarketing); by

''(ii) the national factor.

''(B) ADJUSTMENT.—The farm marketing quota determined under subparagraph (A) for a marketing year shall be increased for under- marketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediate preceding marketing year (if marketing quotas were in effect for that year under the program established by this section) is less than or exceeds the farm marketing quota for such year. Notwithstanding the preceding sentence, the farm marketing quota for a marketing year shall not be increased under this subparagraph for undermarketing by an amount in excess of the farm marketing quota determined for the farm for the immediately preceding year prior to any increase for undermarketing or decrease for overmarketing. If due to excess marketing in the preceding marketing year, the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction shall be made for the subsequent marketing year or years.

''(5) NATIONAL FACTOR.—The term 'national factor' for a marketing year means a number obtained by dividing—

''(A) the national marketing quota (less the reserve provided for under subsection (e)); by

''(B) the sum of the farm marketing quotas (prior to any adjustments for undermarketing or overmarketing) for the immediate preceding marketing year for all farms for which marketing quotas for the kind of tobacco involved will be determined for such succeeding marketing year.''.

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in the first sentence of subsection (b), by striking ''and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco,'';

(2) in the first sentence of subsection (c), by striking ''and at the same time announce the national acreage allotment and national average yield goal'';

(3) in subsection (d)—

(A) in the sixth sentence, by striking '', national acreage allotment, and national average yield goal'';

(B) in the eighth sentence, by striking '', national acreage allotment and national average yield goal''; and

(C) in the ninth sentence, by striking '', national acreage allotment, and national average goal are'' and inserting ''is'';

(4) in subsection (e)—

(A) in the first sentence, by striking ''No farm acreage allotment or farm yield shall be established'' and inserting ''A farm marketing quota and farm yield shall not be established'';

(B) in the second sentence, by striking ''acreage allotment'' both places it appears and inserting ''marketing quota'';

(C) in the second sentence, by striking ''acreage allotments'' both places it appears and inserting ''marketing quotas''; and

(D) in the last sentence, by striking ''acreage allotment'' and inserting ''marketing quota''; and

(5) in subsection (g)—

(A) in paragraph (1), by striking ''paragraph (a)(8)'' and inserting ''subsection (a)(4)''; and

(B) in paragraph (3), by striking ''subsection (a)(8)'' and inserting ''subsection (a)(4)''.

(c) FARM MARKETING QUOTA REDUCTIONS.—Subsection (f) of such section is amended to read as follows:

''(f) CAUSES FOR FARM MARKETING QUOTA REDUCTION.—(1) When an acreage-poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for a farm shall be reduced by the amount of such kind of tobacco produced on the farm—

''(A) which was marketed as having been produced on a different farm;

''(B) for which proof of disposition is not furnished as required by the Secretary;

''(C) on acreage equal to the difference between the acreage reported by the farm operator or a duly authorized representative and the determined acreage for the farm; and

''(D) as to which any producer on the farm filed, or aids, or acquiesces, in the filing of any false report with respect to the production or marketing of tobacco.

''(2) If the Secretary, through the local committee, find that no person connected with a farm caused, aided, or acquiesced in any irregularity described in paragraph (1), the next established farm marketing quota shall not be reduced under this subsection.

''(3) The reduction required under this subsection shall be in addition to any other adjustments made pursuant to this section.

''(4) In establishing farm marketing quotas for other farms owned by the owner displaced by acquisition of the owner's land by any agency, as provided in section 378 of this Act, increases or decreases in such farm marketing quotas as provided in this section shall be made on account of marketings below or in excess of the farm marketing quotas for the farm acquired by the agency.

''(5) Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 316) be leased and sold under the terms and conditions in section 316 of this Act, except that any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred.''.

(d) EFFECT OF AMENDMENTS ON CURRENT TOBACCO CROP.—Section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 1995 crop of Flue-cured tobacco.

SEC. 2403. REMOVAL OF FARM RECONSTITUTION EXCEPTION FOR BURLEY TOBACCO.

Section 379(a)(6) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379(a)(6)) is amended by striking '', but this clause (6) shall not be applicable in the case of burley tobacco''.

SEC. 2404. REDUCTION IN PERCENTAGE THRESHOLD FOR TRANSFER OF FLUE-CURED TOBACCO QUOTA IN CASES OF DISASTER.

The second subsection (h) in section 316 of the Agricultural Adjustment Act of 1938 (7

U.S.C. 1314b) is amended by striking ''90 percent'' in paragraph (1)(A) and inserting ''80 percent''.

SEC. 2405. EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.

(a) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(1) in clause (ii), by inserting after ''Burley quota tobacco'' the following: ''and cigar-type quota tobacco''; and

(2) in clause (iii)—

(A) in the matter preceding the subclauses, by striking ''Flue-cured or Burley tobacco'' and inserting ''each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,''; and

(B) by striking subclause (II) and inserting the following new subclause:

''(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for such kind of tobacco payable under clauses (i) and (ii); and''.

(b) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(1) in subparagraph (B), by inserting after ''Burley quota tobacco'' the following: ''and cigar-type quota tobacco''; and

(2) in subparagraph (C), by striking ''Flue-cured and Burley tobacco'' and inserting ''each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

SEC. 2406. REPEAL OF REPORTING REQUIREMENTS RELATING TO EXPORT OF TOBACCO.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509) is repealed.

SEC. 2407. REPEAL OF LIMITATION ON REDUCING NATIONAL MARKETING QUOTA FOR FLUE-CURED AND BURLEY TOBACCO.

(a) FLUE-CURED TOBACCO.—Section 317(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(a)(1)) is amended by striking subparagraph (C).

(b) BURLEY TOBACCO.—Section 319(c)(3) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(c)(3)) is amended by striking subparagraph (C).

SEC. 2408. APPLICATION OF CIVIL PENALTIES UNDER TOBACCO INSPECTION ACT.

Section 12 of the Tobacco Inspection Act (7 U.S.C. 511k) is amended—

(1) by inserting ''(a) FINE FOR VIOLATIONS.—'' after ''That any person''; and

(2) by adding at the end the following new subsections:

''(b) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any rule or regulation issued under this Act.

''(c) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this Act, if the Secretary believes that the administration and enforcement of this Act would be adequately served by providing a suitable written notice or warning to the person who committed such violation or administrative action.

''(d) CIVIL PENALTIES AND ORDERS.—

''(1) CIVIL PENALTIES.—Any person who willfully violates any provision of this Act or any of the regulations issued by the Secretary under this Act may be assessed a civil penalty by the Secretary of not less than $500 or more than $5,000 for each such violation. Each violation shall be a separate offense.

''(2) CEASE AND DESIST ORDERS.—In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing any such violation.

''(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued by the Secretary under this subsection unless the person against whom the penalty is assessed or the order is issued is given notice and opportunity for a hearing before the Secretary with respect to such violation.

''(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the Secretary's order with the appropriate district court of the United States, in accordance with subsection (e).

''(e) REVIEW BY DISTRICT COURT.—

''(1) COMMENCEMENT OF ACTION.—Any person who has been determined to be in violation of this Act, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (d), may obtain review of the penalty or order—

''(A) by filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in—

''(i) the district court of the United States for the district in which the person resides or conducts business; or

''(ii) the United States District Court for the District of Columbia; and

''(B) by sending, within the same period, a copy of such notice by certified mail to the Secretary.

''(2) RECORD.—The Secretary shall file promptly in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary has determined that the person had committed a violation.

''(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if such finding is found to be unsupported by substantial evidence.

''(f) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order under this section after such order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for hearing and for a judicial review under the procedures specified in subsection (e), of not more than $500 for each offense. Each day during which such failure continues shall be considered as a separate violation of such order.

''(g) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for the district in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

''(h) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.''.

SEC. 2409. TRANSFERS OF QUOTA OR ALLOTMENT ACROSS COUNTY LINES IN A STATE.

(a) TRANSFERS ALLOWED BY REFERENDUM.—

(1) FLUE-CURED TOBACCO.—Section 316(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g)) is amended by adding at the end the following:

''(3) Notwithstanding paragraph (1), the Secretary may permit the sale of a Flue-cured tobacco allotment or quota from one farm in a State to any other farm in the State if a majority of active Flue-cured tobacco producers within the State approve of such sales by a state-wide referendum to be conducted by the Secretary.''.

(2) OTHER TOBACCO.—Section 318(b) of such Act (7 U.S.C. 1314d(b)) is amended in the proviso by inserting after ''same State'' the following: ''and, in the case of other kinds of tobacco, any such transfer may be made to a farm in another county in the same State if transfers of such type are approved by a majority of the active producers of that kind of tobacco in the State who vote in a referendum held on the subject''.

(3) BURLEY TOBACCO.—Section 319(l) of such Act (7 U.S.C. 1314e(l)) is amended by striking the last sentence.

(b) SAME GROWER IN CONTIGUOUS COUNTIES.—Section 379(b) of such Act (7 U.S.C. 1379(b)) is amended by striking ''Burley tobacco poundage quota'' and inserting ''tobacco quota or allotment''.

SEC. 2410. CALCULATION OF NATIONAL MARKETING QUOTA.

(a) FLUE-CURED TOBACCO.—Section 317(a)(1)(B)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(a)(1)(B)(ii)) is amended by inserting before the semicolon the following: '', but excluding any exports of unmanufactured tobacco counted under clause (i)''.

(b) BURLEY TOBACCO.—Section 319(c)(3)(A)(ii) of such Act (7 U.S.C. 1314e(l)) is amended by inserting before the semicolon the following: '', but excluding any exports of unmanufactured tobacco counted under clause (i)''.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to the 1996 and subsequent crops of Flue-cured and Burley tobacco.

SEC. 2411. CLARIFICATION OF AUTHORITY TO ACCESS CIVIL MONEY PENALTIES.

Section 314 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

''(c) The failure by a person to comply with regulations issued by the Secretary governing the marketing, disposition, or handling of tobacco under this part shall subject the person to a penalty at the rate provided in subsection (a).''.

SEC. 2412. LEASE AND TRANSFER OF FARM MARKETING QUOTAS FOR BURLEY TOBACCO.

Section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended—

(1) in paragraph (1), by striking ''July 1'' each place it appears and inserting ''September 1''; and

(2) in paragraph (3)—

(A) by striking ''within the three immediately preceding crop years'' in the first sentence and inserting ''during the current crop year or either of the two immediately preceding crop years''; and

(B) by striking ''July 1'' in the second sentence and inserting ''September 1''.

SEC. 2413. LIMITATION ON TRANSFER OF ACREAGE ALLOTMENTS OF OTHER TOBACCO.

Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended by striking ''ten acres'' and inserting ''20 acres''.

SEC. 2414. GOOD FAITH RELIANCE ON ACTIONS OR ADVICE OF DEPARTMENT REPRESENTATIVES.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 314A (7 U.S.C. 1314–1) the following new section:

"SEC. 315. GOOD FAITH RELIANCE ON ACTIONS OR ADVICE OF DEPARTMENT REPRESENTATIVES.

''Notwithstanding any other provision of law, the performance rendered in good faith by a person in good faith in reliance upon action or advice of an authorized representative of the Secretary may be accepted as meeting the requirements of this part.''.

SEC. 2415. UNIFORM FORFEITURE DATES FOR FLUE-CURED AND BURLEY TOBACCO.

(a) SALE OR FORFEITURE OF FLUE-CURED TOBACCO ALLOTMENT OR QUOTA.—The first subsection (h) of section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended—

(1) in paragraph (1), by striking ''before the expiration of the eighteen month period beginning on July 1 of the year in which such crop is planted'' and inserting ''before February 15 of the year after the end of the marketing year for the planted crop''; and

(2) in paragraph (2), by striking ''July 1'' and inserting ''February 15''.

(b) MANDATORY SALE OF FLUE-CURED TOBACCO ALLOTMENT OR QUOTA.—Section 316A of such Act (7 U.S.C. 1314b–1) is amended—

(1) in subsection (a), by striking ''December 1 of the year'' and inserting ''February 15 of the year''; and

(2) in subsection (b), by striking ''July 1'' and inserting ''February 15''.

(c) MANDATORY SALE OF BURLEY TOBACCO ALLOTMENT OR QUOTA.—Section 316B of such Act (7 U.S.C. 1314b–2) is amended—

(1) in subsection (a), by striking ''December 1 of the year'' and inserting ''February 15 of the year''; and

(2) in subsection (c)(1), by striking ''before the expiration of the eighteen month period beginning on July 1 of the year in which such crop is planted'' and inserting ''before February 15 of the year after the end of the marketing year for the planted crop''.

SEC. 2416. SALE OF BURLEY AND FLUE-CURED TOBACCO MARKETING QUOTAS FOR A FARM BY RECENT PURCHASERS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 316B (7 U.S.C. 1314b–2) the following new section:

"SEC. 316C. AUTHORITY FOR RECENT PURCHASER OF A FARM TO SELL BURLEY TOBACCO OR FLUE-CURED TOBACCO MARKETING QUOTAS FOR THE FARM.

''A new owner of a farm that has purchase history of Burley tobacco or Flue-cured tobacco may sell the purchased tobacco quota notwithstanding any limitations on such a sale contained in this part if the sale is completed not later than one year after the purchase date of the farm.''.

Subtitle E—Planting Flexibility

SEC. 2501. DEFINITIONS.

Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by adding at the end the following:

''(4) ACREAGE CONSERVATION RESERVE, REDUCED ACREAGE.—The terms 'acreage conservation reserve' and 'reduced acreage' mean the number of acres on a farm to be devoted to conservation uses on the farm, which must be protected from weeds and erosion. Such number shall be determined by multiplying the specific crop acreage base for a crop on the farm by the percentage acreage reduction required by the Secretary.

''(5) PERMITTED ACREAGE.—The term 'permitted acreage' means the crop acreage base for a program crop for the farm less the acreage conservation reserve. If an acreage reduction program is not in effect for a program crop, for purposes of administering this title, the permitted acreage of such a crop on a farm shall be equal to the crop acreage base for the crop for the farm.

''(6) PAYMENT ACREAGE.—The term 'payment acreage' means the lesser of—

''(A) the number of acres planted and considered planted to an eligible crop, as determined in sections 503(c) and 504(b)(1), for harvest within the permitted acreage; or

''(B) 77 percent of the crop acreage base for the crop for the farm less the acreage conservation reserve.

''(7) RESOURCE-CONSERVING CROP.—The term 'resource-conserving crop' means legumes, legume-grass mixtures, legume-small grain mixtures, legume-grass-small grain mixtures, and experimental and industrial crops, crops planted for special conservation practices, biomass production, intensive rotational grazing, and non-legume crops, as determined by the Secretary, to satisfy program objectives.

''(8) RESOURCE-CONSERVING CROP ROTATION.—The term 'resource-conserving crop rotation' means a crop rotation that includes at least one resource-conserving crop and that reduces erosion, maintains or improves soil fertility and tilth, interrupts pest cycles, or conserves water.

''(9) FARMING OPERATIONS AND PRACTICES.—The term 'farming operations and practices' means practices which include the integration of crops and crop-plant variety selection, rotation practices, tillage systems, soil conserving and soil building practices, nutrient management strategies, biological control and integrated pest management strategies, livestock production and management systems, animal waste management systems, water and energy conservation measures, and health and safety considerations.

''(10) INTEGRATED FARM MANAGEMENT PLAN.—The term 'integrated farm management plan' means a comprehensive, multiyear, site-specific plan that meets the requirements of section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822).

''(11) GRASS.—The term 'grass' means any perennial grasses commonly used for haying or grazing.

''(12) LEGUME.—The term 'legume' means any forage legumes (such as alfalfa or clover) or any legume grown for use as a forage or green manure, but not including any bean crop from which the seeds are harvested.

''(13) SMALL GRAIN.—The term 'small grain' does not include malting barley or wheat, except for wheat interplanted with other small grain crops for nonhuman consumption.''.

SEC. 2502. CROP AND TOTAL ACREAGE BASES.

Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended—

(1) in the section heading, by inserting ''and total'' after ''crop'';

(2) at the end of subsection (a), by adding the following new paragraph:

''(4) TOTAL ACREAGE BASE.—The total acreage base for a farm shall equal the sum of the crop acreage bases established for program crops on the farm that are enrolled in the acreage reduction programs established by the Secretary.'';

(3) in the heading for subsection (b) by adding ''OF CROP ACREAGE BASES'' after ''CALCULATION'';

(4) in subsection (b)(2)—

(A) by striking ''(A) IN GENERAL'';

(B) by striking ''except as provided in subparagraph (B),''; and

(C) by striking subparagraph (B); and

(5) in subsection (c)(1), by striking ''reduced acreage'' and inserting ''acreage conservation reserve''.

SEC. 2503. PLANTING FLEXIBILITY.

(a) SPECIFIED COMMODITIES.—Subsection (b) of section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting the following new subparagraph after subparagraph (D):

''(E) any cover crop (including maintenance of native cover) and summer fallow which, as determined by the Secretary, will protect the land from weeds and erosion; and'';

(2) by striking paragraph (2) and inserting the following new paragraph:

''(2) LIMITATIONS ON CROPS.—

''(A) IN GENERAL.—For purposes of this section, the Secretary may restrict the planting on a crop acreage base of any crop specified in paragraph (1).

''(B) EFFECT OF ACREAGE REDUCTION PROGRAM.—If an acreage reduction program is in effect for any specific program crop, the Secretary may limit the plantings of the specific program crop for which there is an acreage reduction program in effect to no more than the sum of—

''(i) the permitted acreage for the specific program crop for which there is an acreage reduction program in effect; plus

''(ii) 23 percent of other crop acreage bases which are included in the total acreage base for a farm.

''(C) MINIMUM PLANTING.—The Secretary may require that, as a condition for eligibility for loans, deficiency payments and any other program benefits authorized by this Act, a minimum percentage not to exceed 50 percent of a specific permitted acreage, be planted to the specific program crop.''; and

(3) in paragraph (3) by striking ''make a determination in each crop year of'' and inserting ''determine''.

(b) LIMITATION ON PLANTINGS.—Subsection (c) of such section is amended by striking paragraphs (1) and (2) and inserting the following:

''The quantity of the total acreage base that may be planted to program crops enrolled in an acreage reduction program shall not exceed 100 percent of the total acreage base, less the acreage conservation reserve for the farm.''.

(c) PLANTINGS IN EXCESS OF PERMITTED ACREAGE.—Subsection (d) of such section is amended to read as follows:

''(d) PLANTINGS IN EXCESS OF PERMITTED ACREAGE.—Notwithstanding any other provision of this Act, except as provided in section 504(b)(2)(B), producers of a program crop who are participating in the acreage reduction program for that crop shall be allowed to plant that program crop in a quantity that exceeds the permitted acreage for that crop without losing their eligibility for loans or payments with respect to that crop if—

''(1) the acreage planted to that program crop on the farm in excess of the permitted acreage for that crop does not exceed the permitted acreage of other program crops on the farm; and

''(2) the producer agrees to a reduction in permitted acreage for the other program crops produced on the farm by a quantity equal to the overplanting.''.

(d) LOAN ELIGIBILITY.—Subsection (e) of such section is amended to read as follows:

''(e) LOAN ELIGIBILITY.—Producers of a specific program crop (referred to in this subsection as the 'original program crop') who plant for harvest on the crop acreage base established for such original program crop another program crop in accordance with this section and who are participants in the program established for such other program

crop shall be eligible to receive loans or loan deficiency payments for such other program crop on the same terms and conditions as are provided to participants in a acreage reduction program established for such other program crop if the producers—

''(1) plant such other program crop in an amount that does not exceed 100 percent of the permitted acreage established for the original program crop; and

''(2) agree to a reduction in the permitted acreage for the original program crop for the particular crop year.''.

SEC. 2504. FARM PROGRAM PAYMENT YIELDS.

Section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465) is amended to read as follows:

''SEC. 505. FARM PROGRAM PAYMENT YIELDS.

''(a) ESTABLISHMENT.—The Secretary shall provide for the establishment of a farm program payment yield for each farm for each program crop for each crop year in accordance with subsection (b) or (c).

''(b) FARM PROGRAM PAYMENT YIELDS BASED ON 1995 CROP YEAR.—

''(1) IN GENERAL.—If the Secretary determines that farm program payment yields shall be established in accordance with this subsection, except as provided in paragraph (2), the farm program payment yield for each of the 1996 through 2002 crop years shall be the farm program payment yield for the 1995 crop year for the farm.

''(2) ADDITIONAL YIELD PAYMENTS.—In the case of each of the 1991 through 2002 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. The payments shall be made available not later than the time final deficiency payments are made.

''(3) NO YIELD AVAILABLE.—If no farm program payment yield was established for the farm for 1995 crop, the farm program payment yield shall be established on the basis of the average farm program payment yield for the crop years for similar farms in the area.

''(4) NATIONAL, STATE, OR COUNTY YIELDS.—If the Secretary determines the action is necessary, the Secretary may establish national, State, or county program payment yields on the basis of—

''(A) historical yields, as adjusted by the Secretary to correct for abnormal factors affecting the yields in the historical period; or

''(B) the Secretary's estimate of actual yields for the crop year involved if historical yield data is not available.

''(5) BALANCING YIELDS.—If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

''(c) DETERMINATION OF YIELDS.—

''(1) ACTUAL YIELDS.—With respect to the 1996 and subsequent crop years, the Secretary may—

''(A) establish the farm program payment yield as provided in subsection (a); or

''(B) establish a farm program payment yield for any program crop for any farm on the basis of the average of the yield per harvested acre for the crop for the farm for each of the 5 crop years immediately preceding the crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which such crop was not planted on the farm.

''(2) PRIOR YIELDS.—For purposes of the preceding sentence, the farm program payment yield for the 1996 crop year and the actual yield per harvested acre with respect to the 1997 and subsequent crop years shall be used in determining farm program payment yields.

''(3) REDUCTION LIMITATION.—Notwithstanding any other provision of this subsection, for purposes of establishing a farm program payment yield for any program crop for any farm for the 1991 and subsequent crop years, the farm program payment yield for the 1986 crop year may not be reduced more than 10 percent below the farm program payment yield for the farm for the 1985 crop year.

''(4) ADJUSTMENT OF YIELDS.—The county committee, in accordance with regulations prescribed by the Secretary, may adjust any farm program payment yield for any program crop for any farm if the farm program payment yield for the crop on the farm does not accurately reflect the productive potential of the farm.

''(d) ASSIGNMENT OF YIELDS.—In the case of any farm for which the actual yield per harvested acre for any program crop referred to in subsection (c) for any crop year is not available, the county committee may assign the farm a yield for the crop for the crop year on the basis of actual yields for the crop for the crop year on similar farms in the area.

''(e) ACTUAL YIELD DATA.—

''(1) PROVISION.—The Secretary shall, under such terms and conditions as the Secretary may prescribe, allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop.

''(2) MAINTENANCE.—The Secretary shall maintain the data for at least 5 crop years after receipt in a manner that will permit the data to be used, if necessary, in the administration of the commodity programs.''.

SEC. 2505. APPLICATION OF PROVISIONS.

Section 509 of the Agricultural Act of 1949 (7 U.S.C. 1469) is amended to read as follows:

''SEC. 509. APPLICATION OF TITLE.

''Except as provided in section 406, this title shall apply only with respect to the 1996 through 2002 crops.''.

Subtitle F—Miscellaneous Provisions

SEC. 2601. LIMITATIONS ON AMOUNT OF DEFICIENCY PAYMENTS AND LAND DIVERSION PAYMENTS.

Section 1001(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(1)(A)) is amended by striking ''$50,000'' and inserting ''$47,000''.

SEC. 2602. SENSE OF CONGRESS REGARDING CERTAIN CANADIAN TRADE PRACTICES.

(a) FINDINGS.—The Congress finds the following:

(1) On October 15, 1993, in response to a request from the National Potato Council, the Foreign Agricultural Service of the Department of Agriculture listed several Canadian nontariff barriers that violate the national treatment principle of the General Agreement on Tariffs and Trade, including the prohibition on bulk shipments, container size limitations on processed products, and prohibitions on consignment sales.

(2) Current Government-to-Government and direct grower-to-grower discussions with Canada have failed to result in changes in Canadian trade practices.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of Agriculture and the United States Trade Representative should intensify efforts to resolve the Canadian potato trade concerns and begin to consider formal action under the dispute resolution procedures of the North American Free Trade Agreement or the General Agreement on Tariffs and Trade.

TITLE III—COMMERCE

SEC. 3101. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

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

''(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

''(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

''(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

''(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

''(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses.''; and

(B) by striking ''1998'' in paragraph (11) and inserting ''2002''.

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of such Act is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section; or

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act.

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2001.

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

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services; and

(D) comply with the requirements of international agreements concerning spectrum allocations.

(3) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

''(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Seven-Year Balanced Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.'';

(2) in section 114(a)(1), by striking ''(a) or (d)(1)'' and inserting ''(a), (d)(1), or (f)''.

(d) COMPLETION OF C-BLOCK PCS AUCTION.—The Federal Communications Commission shall commence the Broadband Personal Communications Services C-Block auction described in the Commission's Sixth Report and Order in DP Docket 93–253 (FCC 93–510, released July 18, 1995) not later than December 4, 1995. The Commission's competitive bidding rules governing such auction, as set forth in such Sixth Report and Order, are hereby ratified and adopted as a matter of Federal law.

(e) MODIFICATION OF AUCTION POLICY TO PRESERVE AUCTION VALUE OF SPECTRUM.—The voluntary negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established by the Commission's Third Report and Order in ET Docket No. 92–9, shall expire one year after the date of acceptance by the Commission of applications for such licensed emerging technology services. The mandatory negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established in such Third Report and Order, shall expire two years after the date of acceptance by the Commission of applications for such licensed emerging technology services.

(f) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting ''INITIAL REALLOCATION REPORT'';

(B) by inserting ''in the first report required by subsection (a)'' after ''recommend for reallocation'' in paragraph (1);

(C) by inserting ''or (3)'' after ''paragraph (1)'' each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

''(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).''; and

(2) in section 115—

(A) in subsection (b), by striking ''the report required by section 113(a)'' and inserting ''the initial reallocation report required by section 113(a)''; and

(B) by adding at the end the following new subsection:

''(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j).''.

SEC. 3102. FEDERAL COMMUNICATIONS COMMISSION FEE COLLECTIONS

(a) APPLICATION FEES.—

(1) ADJUSTMENT OF APPLICATION FEE SCHEDULE.—Section 8(b) of the Communications Act of 1934 (47 U.S.C. 158(b)) is amended to read as follows:

''(b)(1) For fiscal year 1996 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to—

''(A) $40,000,000; plus

''(B) an additional amount, specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, not to exceed the amount by which the necessary expenses for the costs described in paragraph (5) exceeds $40,000,000.

''(2) In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5.00 in the case of fees under $100, or to the nearest $20 in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made pursuant to this paragraph immediately upon the adoption of such adjustment.

''(3) The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraphs (1) and (4).

''(4) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of Commission rulemaking proceedings or changes in law.

''(5) Any modified fees established under paragraph (4) shall be derived by determining the full-time equivalent number of employees performing application activities, adjusted to take into account other expenses that are reasonably related to the cost of processing the application or filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors that the Commission determines are necessary in the public interest. The Commission shall—

''(A) transmit to the Congress notification of any proposed modification made pursuant to this paragraph immediately upon adoption of such proposal; and

''(B) transmit to the Congress notification of any modification made pursuant to this paragraph immediately upon adoption of such modification.

''(6) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.''.

(2) TREATMENT OF ADDITIONAL COLLECTIONS.—Section 8(e) of such Act is amended to read as follows:

''(e) Of the moneys received from fees authorized under this section—

''(1) $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act; and

''(2) the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.''.

(3) SCHEDULE OF APPLICATION FEES FOR PCS.—The schedule of application fees in section 8(g) of such Act is amended by adding, at the end of the portion under the heading ''COMMON CARRIER SERVICES'', the following new item:

''23. Personal communications services	
''a. Initial or new application	230
''b. Amendment to pending application	35
''c. Application for assignment or transfer of control	230
''d. Application for renewal of license	35
''e. Request for special temporary authority	200
''f. Notification of completion of construction	35
''g. Request to combine service areas	50''.

(4) VANITY CALL SIGNS.—

(A) LIFETIME LICENSE FEES.—

(i) AMENDMENT.—The schedule of application fees in section 8(g) of such Act is further amended by adding, at the end of the portion under the heading ''PRIVATE RADIO SERVICES'', the following new item:

''11. Amateur vanity call signs	150.00''.

(ii) TREATMENT OF RECEIPTS.—Moneys received from fees established under the amendment made by this subsection shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(B) TERMINATION OF ANNUAL REGULATORY FEES.—The schedule of regulatory fees in section 9(g) of such Act (47 U.S.C. 159(g)) is amended by striking the following item from the fees applicable to the Private Radio Bureau:

''Amateur vanity call-signs	7''.

(b) REGULATORY FEES.—

(1) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1) of the Communications Act of 1934 (47 U.S.C. 159(a)(1)) is amended by inserting before the period at the end the following: '', and all executive and legal costs incurred by the Commission in the discharge of these functions''.

(2) ESTABLISHMENT AND ADJUSTMENT.—Section 9(b) of such Act is amended—

(A) in paragraph (4)(B), by striking ''90 days'' and inserting ''45 days''; and

(B) by adding at the end the following new paragraph:

''(5) EFFECTIVE DATE OF ADJUSTMENTS.—The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraph (2) or (3).''.

(3) REGULATORY FEES FOR SATELLITE TV OPERATIONS.—The schedule of regulatory fees in section 9(g) of such Act is amended, in the fees applicable to the Mass Media Bureau, by inserting after each of the items pertaining to construction permits in the fees applicable to VHF commercial and UHF commercial TV the following new item:

''Terrestrial television satellite operations ..... 500''.

(4) GOVERNMENTAL ENTITIES USE FOR COMMON CARRIER PURPOSES.—Section 9(h) of such Act is amended by adding at the end the following new sentence: ''The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.''.

(5) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF REGULATORY FEES.—Title I of such Act is amended—

(A) in section 9, by striking subsection (i); and

(B) by inserting after section 9 the following new section:

''SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

''(a) ACCOUNTING SYSTEM REQUIRED.—The Commission shall develop accounting systems for the purposes of making the adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in section 8(a)(5) and 9(a)(1) in making such adjustments in the schedules required by sections 8 and 9.

''(b) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF APPLICATION AND REGULATORY FEES.—

''(1) SCHEDULE OF REQUESTED AMOUNTS.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the Committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(a)(5) and 9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

''(2) EXPLANATORY STATEMENT.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

''(3) DEFINITION.—For purposes of this subsection, the term 'amount requested by the President's budget' shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such Committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.''.

SEC. 3103. AUCTION OF RECAPTURED ANALOG LICENSES.

(a) LIMITATIONS ON TERMS OF ANALOG TELEVISION LICENSES (''REVERSION DATE'').—The Commission shall not renew any analog television license for a period that extends beyond the earlier of December 31, 2005, or one year after the date the Commission finds, based on annual surveys conducted pursuant to subsection (b), that at least 95 percent of households in the United States have the capability to receive and display video signals, other than video signals transmitted pursuant to an analog television license. After such date, the Commission shall not issue any television licenses other than advanced television licenses.

(b) ANNUAL SURVEY.—The Secretary of Commerce shall, each calendar year from 1998 to 2005, conduct a survey to estimate the percentage of households in the United States that have the capability to receive and display video signals other than signals transmitted pursuant to an analog television license.

(c) SPECTRUM REVERSION.—The Commission shall ensure that, as analog television licenses expire pursuant to subsection (a), spectrum previously used for the broadcast of analog television signals is reclaimed and reallocated in such manner as to maximize the deployment of new services. Licensees for new services shall be selected by competitive bidding. The Commission shall complete the competitive bidding procedure by May 1, 2002.

(d) MINIMUM SERVICE OBLIGATION.—

(1) PROVISION OF CAPABILITY TO RECEIVE ADVANCED SERVICES.—The Commission shall, by regulation, establish procedures to ensure that, within the year prior to the reversion date defined in subsection (a), the advanced television licensees shall provide each household with the capability to receive and display video signals for advanced television services if such household requests such capability.

(2) PROVISION OF NONSUBSCRIPTION SERVICES.—Each advanced television service licensee shall provide, for at least a minimum of 5 years from the date identified in subsection (a), at least one nonsubscription video service that meets or exceeds minimum technical standards established by the Commission. In setting such minimum technical standards, the Commission shall, to the extent technically feasible, ensure that picture and audio quality are at least as good as that provided to recipients within the Grade B contour of an analog television license. The Commission shall revoke the license of any advanced television licensee who fails to meet this condition of the license.

(e) DEFINITIONS.—As used in this section:

(1) The term ''Commission'' means the Federal Communications Commission.

(2) The term ''advanced television services'' means television services provided using digital or other advanced technology to enhance audio quality and video resolution, as further defined in the Opinion, Report, and Order of the Commission entitled ''Advanced Television Systems and Their Impact Upon the Existing Television Service,'' MM Docket No. 87–268.

(3) The term ''analog television licenses'' means licenses issued pursuant to 47 C.F.R. 73.682 et seq.

SEC. 3104. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking ''1998'' and inserting ''2002'';

(2) in subsection (b)(2) by striking ''1998'' and inserting ''2002''; and

(3) in subsection (c)—

(A) by striking ''through 1998'' and inserting ''through 2002''; and

(B) by adding at the end the following:

''(9) $119,000,000 in fiscal year 1999.

''(10) $119,000,000 in fiscal year 2000.

''(11) $119,000,000 in fiscal year 2001.

''(12) $119,000,000 in fiscal year 2002.''.

SEC. 3105. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Section 2004 of title 39, United States Code, is repealed.

(2)(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking ''sections 2401 and 2004'' each place it appears and inserting ''section 2401''.

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

''(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.''.

TITLE IV—TRANSPORTATION

SEC. 4101. EXTENSION OF RAILROAD SAFETY FEES.

Subsection (e) of section 20115 of title 49, United States Code, is repealed.

SEC. 4102. PERMANENT EXTENSION OF VESSEL TONNAGE DUTIES.

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

(1) by striking ''for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 2 cents per ton not to exceed in the aggregate 10 cents per tone in any one year, for each fiscal year thereafter''; and

(2) by striking ''for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 6 cents per ton, not to exceed 30 cents per ton for each fiscal year thereafter''.

(b) CONFORMING AMENDMENT.—The Act entitled ''An Act concerning tonnage duties on vessels entering otherwise than by sea'', approved March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking ''for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any 1 year, for each fiscal year thereafter,''.

SEC. 4103. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 4104. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market

value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

TITLE V—HOUSING PROVISIONS

SEC. 5101. REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS FOR UNITS WITHOUT TENANT TURNOVER.

Paragraph (2)(A) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by striking the last sentence.

SEC. 5102. MAXIMUM MORTGAGE AMOUNT FLOOR FOR SINGLE FAMILY MORTGAGE INSURANCE.

Subparagraph (A) of the first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking ''the greater of'' and all that follows through ''applicable size'' and inserting the following: ''50 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as adjusted annually under such section) for a residence of the applicable size''.

SEC. 5103. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) FORECLOSURE AVOIDANCE.—The last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: '': *And provided further,* That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further,* That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review''.

(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

''AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

''SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary, except that—

''(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

''(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

''(b) ASSIGNMENT.—

''(1) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

''(2) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

''(A) the mortgage was in default;

''(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and

''(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

''(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not exceed the amount necessary to compensate the mortgagee for the assignment and any losses resulting from the mortgage modification.

''(c) PROHIBITION OF JUDICIAL REVIEW.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.''.

(c) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary of Housing and Urban Development, before the date of the enactment of this Act, for assignment pursuant to section 230(b) of the National Housing Act shall continue to be governed by the provisions of such section, as in effect immediately before such date of enactment.

(d) APPLICABILITY OF OTHER LAWS.—No provision of the National Housing Act or any other law shall be construed to require the Secretary of Housing and Urban Development to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under the National Housing Act, or to accept assignments of such mortgages.

TITLE VI—INDEXATION AND MISCELLANEOUS ENTITLEMENT-RELATED PROVISIONS

SEC. 6101. CONSUMER PRICE INDEX.

(a) ADJUSTMENTS APPLICABLE TO INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Paragraph (3) of section 1(f) of the Internal Revenue Code of 1986 (defining cost-of-living adjustment) is amended by striking the period at the end and inserting a comma and by inserting at the end the following flush material:

''reduced by the number of percentage points determined under paragraph (8) for the calendar year for which such adjustment is being determined.''

(2) LIMITATION ON INCREASES.—Subsection (f) of section 1 of such Code is amended by adding at the end the following new paragraph:

''(8) LIMITATION ON INCREASES IN CPI.—

''(A) IN GENERAL.—The number of percentage points determined under this paragraph for any calendar year is—

''(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and

''(ii) in the case of calendar years 1999, 2000, 2001, and 2002, 0.3 percentage point.

''(B) COMPUTATION OF BASE TO REFLECT LIMITATION.—The Secretary shall adjust the number taken into account under paragraph (3)(B) so that any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period.''

(b) ADJUSTMENTS APPLICABLE TO CERTAIN ENTITLEMENT PROGRAMS.—

(1) IN GENERAL.—For purposes of determining the amount of any cost-of-living adjustment which takes effect for benefits payable after December 31, 1995, with respect to any benefit described in paragraph (5)—

(A) any increase in the relevant index (determined without regard to this subsection) shall be reduced by the number of percentage points determined under paragraph (2), and

(B) the amount of the increase in such benefit shall be equal to the product of—

(i) the increase in the relevant index (as reduced under subparagraph (A)), and

(ii) the average such benefit for the preceding calendar year under the program described in paragraph (5) which provides such benefit.

(2) LIMITATION ON INCREASES.—

(A) IN GENERAL.—The number of percentage points determined under this paragraph for any calendar year is—

(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and

(ii) in the case of calendar years 1999, 2000, 2001, and 2002, 0.3 percentage point.

(B) COMPUTATION OF BASE TO REFLECT LIMITATION.—Any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period.

(3) PARAGRAPH (1) TO APPLY ONLY TO COMPUTATION OF BENEFIT AMOUNTS.—Paragraph (1) shall apply only for purposes of determining the amount of benefits and not for purposes of determining—

(A) whether a threshold increase in the relevant index has been met, or

(B) increases in amounts under other provisions of law not described in paragraph (5) which operate by reference to increases in such benefits.

(4) DEFINITIONS.—For purposes of this subsection—

(A) COST-OF-LIVING ADJUSTMENT.—The term ''cost-of-living adjustment'' means any adjustment in the amount of benefits described in paragraph (5) which is determined by reference to changes in an index.

(B) INDEX.—

(i) INDEX.—The term ''index'' means the Consumer Price Index and any other index of price or wages.

(ii) RELEVANT INDEX.—The term ''relevant index'' means the index on the basis of which the amount of the cost-of-living adjustment is determined.

(5) BENEFITS TO WHICH SUBSECTION APPLIES.—For purposes of this subsection, the benefits described in this paragraph are—

(A) old age, survivors, and disability insurance benefits subject to adjustment under section 215(i) of the Social Security Act (but the limitation under paragraph (1) shall not apply to supplemental security income benefits under title XVI of such Act);

(B) retired and retainer pay subject to adjustment under section 1401a of title 10, United States Code;

(C) civil service retirement benefits under section 8340 of title 5, United States Code, foreign service retirement benefits under section 826 of the Foreign Service Act of 1980, Central Intelligence Agency retirement benefits under part J of the Central Intelligence Agency Retirement Act of 1964 for certain employees, and any other benefits under any similar provision under any retirement system for employees of the government of the United States;

(D) Federal workers' compensation under section 8146a of title 5, United States Code;

(E) benefits under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974; and

(F) benefits and expenditure limits under title XVIII or XIX of the Social Security Act.

(6) BENEFIT.—For purposes of this section, the term ''benefit'' includes a payment.

SEC. 6102. REDUCTION IN TITLE XX BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) in paragraph (5), by striking ''fiscal year after fiscal year 1989.'' and inserting ''of fiscal years 1990 through 1995; and''; and

(3) by adding at the end the following:

''(6) $2,520,000,000 for fiscal year 1996 and each succeeding fiscal year.''.

SEC. 6103. MATCHING RATE REQUIREMENT FOR TITLE XX BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Section 2002(a)(1) of the Social Security Act (42 U.S.C. 1397a(a)(1)) is amended by striking ''Each State'' and all that follows through the period and inserting the following: ''(A) Each State shall be entitled to payment under this title for each fiscal year in an amount equal to the lesser of—

''(i) 80 percent of the total amount expended by the State during the fiscal year for services referred to in subparagraph (B); or

''(ii) the allotment of the State for the fiscal year.

''(B) A State to which a payment is made under this title shall use the payment for services directed at the goals set forth in section 2001, subject to the requirements of this title.''.

SEC. 6104. DENIAL OF UNEMPLOYMENT INSURANCE TO CERTAIN HIGH-INCOME INDIVIDUALS.

(a) GENERAL RULE.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986, as amended by section 10101, is further amended by striking ''and'' at the end of paragraph (18), by redesignating paragraph (19) as paragraph (20), and by inserting after paragraph (18) the following new paragraph:

''(19) compensation shall not be payable to any individual for any benefit year if the taxable income of such individual for such individual's most recent taxable year ending before the beginning of such benefit year exceeded $120,000; and''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to benefit years beginning after December 31, 1995.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and December 31, 1995, the amendments made by this section shall apply to benefit years beginning after the day 30 calendar days after the first day on which such legislature is in session on or after December 31, 1995.

SEC. 6105. DENIAL OF UNEMPLOYMENT INSURANCE TO INDIVIDUALS WHO VOLUNTARILY LEAVE MILITARY SERVICE.

(a) GENERAL RULE.—Paragraph (1) of section 8521(a) of title 5, United States Code, is amended to read as follows:

''(1) 'Federal service' means active service (not including active duty in a reserve status unless for a continuous period of 45 days or more) in the armed forces or the commissioned corps of the National Oceanic and Atmospheric Administration if with respect to that service the individual—

''(A) was discharged or released under honorable conditions,

''(B) did not resign or voluntarily leave the service, and

''(C) was not discharged or released for cause as defined by the Secretary of Defense;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of a discharge or release after the date of the enactment of this Act.

TITLE VII—MEDICAID REFORM

Subtitle A—Per Capita Spending Limit

SEC. 7001. LIMITATION ON EXPENDITURES RECOGNIZED FOR PURPOSES OF FEDERAL FINANCIAL PARTICIPATION.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1903(a), by striking ''From'' and inserting ''Subject to section 1931, from'';

(2) by redesignating section 1931 as section 1932; and

(3) by inserting after section 1930 the following new section:

''LIMITATION ON FEDERAL FINANCIAL PARTICIPATION BASED ON PER BENEFICIARY SPENDING

''SEC. 1931. (a) IN GENERAL.—Subject to subsection (e), the total amount of State expenditures for medical assistance for which Federal financial participation may be made under section 1903(a) for quarters in a fiscal year (beginning with fiscal year 1997) may not exceed the sum of the following:

''(1) NONDISABLED MEDICAID CHILDREN.—The product of—

''(A) the number of full-year equivalent nondisabled medicaid children (described in subsection (b)(1)) in the State in the fiscal year, and

''(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

''(2) NONDISABLED MEDICAID ADULTS.—The product of—

''(A) the number of full-year equivalent nondisabled medicaid adults (described in subsection (b)(2)) in the State in the fiscal year, and

''(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

''(3) NONDISABLED ELDERLY MEDICAID BENEFICIARIES.—The product of—

''(A) the number of full-year equivalent nondisabled elderly medicaid beneficiaries (described in subsection (b)(3)) in the State in the fiscal year, and

''(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

''(4) DISABLED MEDICAID BENEFICIARIES.—The product of—

''(A) the number of full-year equivalent disabled medicaid beneficiaries (described in subsection (b)(4)) in the State in the fiscal year, and

''(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

''(5) ADMINISTRATIVE EXPENDITURES.—The product of—

''(A) the number of full-year equivalent medicaid beneficiaries who are in any category of beneficiaries in the State in the fiscal year, and

''(B) the per capita limit established under subsection (c)(1) for administrative expenditures for the fiscal year.

This section shall not apply to expenditures for which no Federal financial participation is available under this title.

''(b) DEFINITIONS RELATING TO CATEGORIES OF INDIVIDUALS.—In this section:

''(1) NONDISABLED MEDICAID CHILDREN.—The term 'nondisabled medicaid child' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is under 21 years of age.

''(2) NONDISABLED MEDICAID ADULTS.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 21 years of age but under 65 years of age.

''(3) NONDISABLED ELDERLY MEDICAID BENEFICIARY.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 65 years of age.

''(4) DISABLED MEDICAID BENEFICIARIES.—The term 'disabled medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title who is entitled to such assistance solely on the basis of blindness or disability.

For purposes of this section, nondisabled medicaid children, nondisabled medicaid adults, nondisabled elderly medicaid beneficiaries, and disabled medicaid beneficiaries each constitutes a separate category of medicaid beneficiaries.

''(c) ESTABLISHMENT OF PER CAPITA LIMITS.—

''(1) IN GENERAL.—The Secretary shall establish for each State a per capita medical assistance limit for each category of medicaid beneficiaries described in subsection (b) and for administrative expenditures for a fiscal year equal to the product of the following:

''(A) PREVIOUS EXPENDITURES.—The average of the amount of the per capita matchable medical assistance expenditures (determined under paragraph (2)(A)) for such category (or the per capita matchable adminstrative expenditures determined under paragraph (2)(B)) for such State for each of the 3 previous fiscal years.

''(B) INFLATION FACTOR.—The rolling 2-year CPI increase factor (determined under paragraph (3)(A)) for the fiscal year involved.

''(C) TRANSITIONAL ALLOWANCE.—The transitional allowance factor (if any) applicable under paragraph (3)(B) to such limit for the previous fiscal year and for the fiscal year involved.

''(2) PER CAPITA MATCHABLE MEDICAL ASSISTANCE EXPENDITURES.—For purposes of this section—

''(A) MEDICAL ASSISTANCE EXPENDITURES.—The 'per capita matchable medical assistance expenditures', for a category of medicaid beneficiaries for a State for a fiscal year, is equal to—

''(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the

State under paragraphs (1) and (5) of section 1903(a) (other than expenditures excluded under subsection (e)) with respect to medical assistance furnished with respect to individuals in such category during the fiscal year, divided by

''(ii) the number of full-year equivalent individuals in such category in the State in such fiscal year.

''(B) PER CAPITA MATCHABLE ADMINISTRATIVE EXPENDITURES.—The 'per capita matchable administrative expenditures', for a State for a fiscal year, is equal to—

''(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under section 1903(a) (under paragraphs (1) and (5) of such section) during the fiscal year, divided by

''(ii) the number of full-year equivalent individuals in any category of medicaid beneficiary in the State in such fiscal year.

''(3) INCREASE FACTORS.—In this subsection—

''(A) ROLLING 2-YEAR CPI INCREASE FACTOR.—The 'rolling 2-year CPI increase factor' for a fiscal year is 1 plus the percentage by which—

''(i) the Secretary's estimate of the average value of the consumer price index for all urban consumers (all items, U.S. city average) for months in the particular fiscal year, exceeds

''(ii) the average value of such index for months in the 3 previous fiscal years.

''(B) TRANSITIONAL ALLOWANCE FACTORS.—

''(i) FISCAL YEAR 1996.—The 'transitional allowance factor' for fiscal year 1996—

''(I) for the category of nondisabled medicaid children, is 1.051;

''(II) for the category of nondisabled medicaid adults, is 1.067;

''(III) for the category of nondisabled elderly medicaid beneficiaries is 1.031;

''(IV) for the category of disabled medicaid beneficiaries is 1.015; and

''(V) for administrative expenditures is 1.046.

''(ii) SUBSEQUENT FISCAL YEARS FOR NONDISABLED CHILDREN AND ADULTS AND FOR DISABLED CATEGORIES.—The 'transitional allowance factor' for the categories of nondisabled medicaid children, nondisabled medicaid adults, and disabled medicaid beneficiaries—

''(I) for fiscal year 1997 is 1.01, and

''(II) for each subsequent fiscal year is 1.0.

''(iii) SUBSEQUENT FISCAL YEARS FOR THE ELDERLY AND ADMINISTRATIVE EXPENDITURES.—The 'transitional allowance factor' for the category of nondisabled elderly medicaid beneficiaries and for administrative expenditures for fiscal years after fiscal year 1996 is 1.0.

''(4) NOTICE.—The Secretary shall notify each State before the beginning of each fiscal year of the per capita limits established under this subsection for the State for the fiscal year.

''(d) SPECIAL RULES AND EXCEPTIONS.—For purposes of this section, expenditures attributable to any of the following shall not be subject to the limits established under this section and shall not be taken into account in establishing per capita medical assistance limits under subsection (c)(1):

''(1) DSH.—Payment adjustments under section 1923.

''(2) MEDICARE COST-SHARING.—Payments for medical assistance for medicare cost-sharing (as defined in section 1905(p)(3)).

''(3) SERVICES THROUGH IHS AND TRIBAL PROVIDERS.—Payments for medical assistance for services described in the last sentence of section 1905(b).

Nothing in this section shall be construed as applying any limitation to expenditures for the purchase and delivery of qualified pediatric vaccines under section 1928.

''(e) DEFINITIONS.—In this section, the term 'medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title.

''(f) ESTIMATIONS AND NOTICE.—

''(1) IN GENERAL.—The Secretary shall—

''(A) establish a process for estimating the limits established under subsection (a) for each State at the beginning of each fiscal year and adjusting such estimate during such year; and

''(B) notifying each State of the estimations and adjustments referred to in subparagraph (A).

''(2) DETERMINATION OF NUMBER OF FULL-YEAR EQUIVALENT INDIVIDUALS.—For purposes of this section, the number of full-year equivalent individuals in each category described in subsection (b) for a State for a year shall be determined based on actual reports submitted by the State to the Secretary. In the case of individuals who were not entitled to benefits under a State plan for the entire fiscal year (or are within a group of individuals for only part of a fiscal year), the number shall take into account only the portion of the year in which they were so entitled or within such group. The Secretary may audit such reports.

''(g) ANTI-GAMING ADJUSTMENT TO REFLECT CHANGES IN ELIGIBILITY.—

''(1) REPORT ON PER CAPITA EXPENDITURES.—If a State makes a change (on or after October 15, 1995) relating to eligibility for medical assistance in its State plan that results in the addition or deletion of individuals eligible for such assistance, the State shall submit to the Secretary with such change such information as the Secretary may require in order to carry out paragraph (2).

''(2) ADJUSTMENT FOR CERTAIN ADDITIONS.—If a State makes a change described in paragraph (1) that the Secretary believes will result in making medical assistance available for additional individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures will be less the applicable per capita limit established under subsection (c)(1) for such category, the Secretary shall apply the per capita limits under such subsection separately with respect to individuals who are eligible for medical assistance without regard to such addition and with respect to the individuals so added.

''(3) ADJUSTMENT FOR CERTAIN DELETIONS.—If a State makes a change described in paragraph (1) that the Secretary believes will result in denial of medical assistance for individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures is greater than the applicable per capita limit established under subsection (c)(1) for such catetory, the Secretary shall adjust the payment limits under subsection (a) to reflect any decrease in average per beneficiary expenditures that would result from such change.

''(h) TREATMENT OF STATES OPERATING UNDER WAIVERS.—The Secretary shall provide for such adjustments to the per capita limits under subsection (c) for a fiscal year as may be appropriate to take into account the case of States which either—

''(1) during any of the 3 previous fiscal years was providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is no longer providing such medical assistance under such waiver; or

''(2) during any of the 3 previous fiscal years was not providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is providing such medical assistance under such a waiver.''.

(b) ENFORCEMENT-RELATED PROVISIONS.—

(1) ASSURING ACTUAL PAYMENTS TO STATES CONSISTENT WITH LIMITATION.—Section 1903(d) of such Act (42 U.S.C. 1396b(d)) is amended—

(A) in paragraph (2)(A), by striking ''The Secretary'' and inserting ''Subject to paragraph (7), the Secretary'', and

(B) by adding at the end the following new paragraph:

''(7)(A) The Secretary shall take such steps as are necessary to assure that payments under this subsection for quarters in a fiscal year are consistent with the payment limits established under section 1931 for the fiscal year. Such steps may include limiting such payments for one or more quarters in a fiscal year based on—

''(i) an appropriate proportion of the payment limits for the fiscal year involved, and

''(ii) numbers of individuals within each category, as reported under subparagraph (B) for a recent previous quarter.

''(B) Each State shall include, in its report filed under paragraph (1)(A) for a calendar quarter—

''(i) the actual number of individuals within each category described in section 1931(b) for the second previous calendar quarter and (based on the data available) for the previous calendar quarter, and

''(ii) an estimate of such numbers for the calendar quarter involved.''.

(2) RESTRICTION ON AUTHORITY OF STATES TO APPLY LESS RESTRICTIVE INCOME AND RESOURCE METHODOLOGIES.—Section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following new subparagraph:

''(C) Subparagraph (A) shall not apply to plan amendments made on or after October 15, 1995.''.

(c) CONFORMING AMENDMENT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking ''or'' at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting ''; or'', and

(3) by inserting after paragraph (15) the following:

''(16) in accordance with section 1931, with respect to amounts expended to the extent they exceed applicable limits established under section 1931(a).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1996.

Subtitle B—Medicaid Managed Care

SEC. 7101. PERMITTING GREATER FLEXIBILITY FOR STATES TO ENROLL BENEFICIARIES IN MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), as amended by section 7001(a), is amended—

(1) by redesignating section 1932 as section 1933; and

(2) by inserting after section 1931 the following new section:

''STATE OPTIONS FOR ENROLLMENT OF BENEFICIARIES IN MANAGED CARE ARRANGEMENTS

''SEC. 1932. (a) MANDATORY ENROLLMENT.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this section and notwithstanding paragraphs (1), (10)(B), and (23) of section 1902(a), a State may require an individual eligible for medical assistance under the State plan under this title to enroll with an eligible managed care provider as a condition of receiving such assistance and, with respect to assistance furnished by or under arrangements with such provider, to receive such assistance through the provider, if the following provisions are met:

''(A) The provider meets the requirements of section 1933.

''(B) The provider enters into a contract with the State to provide services for the benefit of individuals eligible for benefits under this title under which prepaid payments to such provider are made on an actuarially sound basis.

''(C) There is sufficient capacity among all providers meeting such requirements to enroll and serve the individuals required to enroll with such providers.

''(D) The individual is not a special needs individual (as defined in subsection (c)).

''(E) The State—

''(i) permits an individual to choose an eligible managed care provider—

''(I) from among not less than 2 medicaid managed care plans; or

''(II) between a medicaid managed care plan and a primary care case management provider;

''(ii) provides the individual with the opportunity to change enrollment among eligible managed care providers not less than once annually and notifies the individual of such opportunity not later than 60 days prior to the first date on which the individual may change enrollment;

''(iii) establishes a method for establishing enrollment priorities in the case of an eligible managed care provider that does not have sufficient capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the provider are given priority in continuing enrollment with the provider;

''(iv) establishes a default enrollment process which meets the requirements described in paragraph (2) and under which any such individual who does not enroll with an eligible managed care provider during the enrollment period specified by the State shall be enrolled by the State with such a provider in accordance with such process; and

''(v) establishes the sanctions provided for in section 1934.

''(2) DEFAULT ENROLLMENT PROCESS REQUIREMENTS.—The default enrollment process established by a State under paragraph (1)(E)(iv) shall—

''(A) provide that the State may not enroll individuals with an eligible managed care provider which is not in compliance with the requirements of section 1933; and

''(B) provide for an equitable distribution of individuals among all eligible managed care providers available to enroll individuals through such default enrollment process, consistent with the enrollment capacities of such providers.

''(b) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—

''(1) IN GENERAL.—If an individual eligible for medical assistance under a State plan under this title and enrolled with an eligible managed care provider with a contract under subsection (a)(1)(B) ceases to be eligible for such assistance for a period of not greater than 2 months, the State may provide for the automatic reenrollment of the individual with the provider as of the first day of the month in which the individual is again eligible for such assistance.

''(2) CONDITIONS.—Paragraph (1) shall only apply if—

''(A) the month for which the individual is to be reenrolled occurs during the enrollment period covered by the individual's original enrollment with the eligible managed care provider;

''(B) the eligible managed care provider continues to have a contract with the State agency under subsection (a)(1)(B) as of the first day of such month; and

''(C) the eligible managed care provider complies with the requirements of section 1933.

''(3) NOTICE OF REENROLLMENT.—The State shall provide timely notice to an eligible managed care provider of any reenrollment of an individual under this subsection.

''(c) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In this section, a 'special needs individual' means any of the following:

''(1) SPECIAL NEEDS CHILD.—An individual who is under 19 years of age who —

''(A) is eligible for supplemental security income under title XVI;

''(B) is described under section 501(a)(1)(D);

''(C) is a child described in section 1902(e)(3); or

''(D) is in foster care or is otherwise in an out-of-home placement.

''(2) HOMELESS INDIVIDUALS.—An individual who is homeless (without regard to whether the individual is a member of a family), including—

''(A) an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations; or

''(B) an individual who is a resident in transitional housing.

''(3) MIGRANT AGRICULTURAL WORKERS.—A migratory agricultural worker or a seasonal agricultural worker (as such terms are defined in section 329 of the Public Health Service Act), or the spouse or dependent of such a worker.

''(4) INDIANS.—An Indian (as defined in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1603(c))).''.

(b) CONFORMING AMENDMENT.—Section 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''subsection (g) and in section 1915'' and inserting ''subsection (g), section 1915, and section 1931,''; and

(2) in subparagraph (B)—

(A) by striking ''a health maintenance organization, or a'' and inserting ''or with an eligible managed care provider, as defined in section 1933(g)(1), or''.

SEC. 7102. REMOVAL OF BARRIERS TO PROVISION OF MEDICAID SERVICES THROUGH MANAGED CARE.

(a) REPEAL OF CURRENT BARRIERS.—Except as provided in subsection (b), section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is repealed on the date of the enactment of this Act.

(b) EXISTING CONTRACTS.—In the case of any contract under section 1903(m) of such Act which is in effect on the day before the date of the enactment of this Act, the provisions of such section shall apply to such contract until the earlier of—

(1) the day after the date of the expiration of the contract; or

(2) the date which is 1 year after the date of the enactment of this Act.

(c) ELIGIBLE MANAGED CARE PROVIDERS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as amended by sections 7001(a) and 7101(a), is amended—

(1) by redesignating section 1933 as section 1934; and

(2) by inserting after section 1932 the following new section:

''ELIGIBLE MANAGED CARE PROVIDERS

''SEC. 1933. (a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) ELIGIBLE MANAGED CARE PROVIDER.—The term 'eligible managed care provider' means—

''(A) a medicaid managed care plan; or

''(B) a primary care case management provider.

''(2) MEDICAID MANAGED CARE PLAN.—The term 'medicaid managed care plan' means a health maintenance organization, an eligible organization with a contract under Section 1876, a provider sponsored network or any other plan which provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B).

''(3) PRIMARY CARE CASE MANAGEMENT PROVIDER.—

''(A) IN GENERAL.—The term 'primary care case management provider' means a health care provider that—

''(i) is a physician, group of physicians, a Federally-qualified health center, a rural health clinic, or an entity employing or having other arrangements with physicians that provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B);

''(ii) receives payment on a fee-for-service basis (or, in the case of a Federally-qualified health center or a rural health clinic, on a reasonable cost per encounter basis) for the provision of health care items and services specified in such contract to enrolled individuals;

''(iii) receives an additional fixed fee per enrollee for a period specified in such contract for providing case management services (including approving and arranging for the provision of health care items and services specified in such contract on a referral basis) to enrolled individuals; and

''(iv) is not an entity that is at risk.

''(B) AT RISK.—In subparagraph (A)(iv), the term 'at risk' means an entity that—

''(i) has a contract with the State under which such entity is paid a fixed amount for providing or arranging for the provision of health care items or services specified in such contract to an individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual; and

''(ii) is liable for all or part of the cost of furnishing such items or services, regardless of whether such cost exceeds such fixed payment.

''(b) ENROLLMENT.—

''(1) NONDISCRIMINATION.—An eligible managed care provider may not discriminate on the basis of health status or anticipated need for services in the enrollment, reenrollment, or disenrollment of individuals eligible to receive medical assistance under a State plan under this title or by discouraging enrollment (except as permitted by this section) by eligible individuals.

''(2) TERMINATION OF ENROLLMENT.—

''(A) IN GENERAL.—An eligible managed care provider shall permit an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider to terminate such enrollment for cause at any time, and without cause during the 60-day period beginning on the date the individual receives notice of enrollment, and shall notify each such individual of the opportunity to terminate enrollment under these conditions.

''(B) FRAUDULENT INDUCEMENT OR COERCION AS GROUNDS FOR CAUSE.—For purposes of subparagraph (A), an individual terminating enrollment with an eligible managed care provider on the grounds that the enrollment was based on fraudulent inducement or was obtained through coercion shall be considered to terminate such enrollment for cause.

''(C) NOTICE OF TERMINATION.—

''(i) NOTICE TO STATE.—

''(I) BY INDIVIDUALS.—Each individual terminating enrollment with an eligible managed care provider under subparagraph (A)

shall do so by providing notice of the termination to an office of the State agency administering the State plan under this title, the State or local welfare agency, or an office of an eligible managed care provider.

''(II) BY PLANS.—Any eligible managed care provider which receives notice of an individual's termination of enrollment with such provider through receipt of such notice at an office of an eligible managed care provider shall provide timely notice of the termination to the State agency administering the State plan under this title.

''(ii) NOTICE TO PLAN.—The State agency administering the State plan under this title or the State or local welfare agency which receives notice of an individual's termination of enrollment with an eligible managed care provider under clause (i) shall provide timely notice of the termination to such provider.

''(D) REENROLLMENT.—Each State shall establish a process under which an individual terminating enrollment under this paragraph shall be promptly enrolled with another eligible managed care provider and notified of such enrollment.

''(3) PROVISION OF ENROLLMENT MATERIALS IN UNDERSTANDABLE FORM.—Each eligible managed care provider shall provide all enrollment materials in a manner and form which may be easily understood by a typical adult enrollee of the provider who is eligible for medical assistance under the State plan under this title.

''(c) QUALITY ASSURANCE.—

''(1) ACCESS TO SERVICES.—Each eligible managed care provider shall provide or arrange for the provision of all medically necessary medical assistance under this title which is specified in the contract entered into between such provider and the State under section 1932(a)(1)(B) for enrollees who are eligible for medical assistance under the State plan under this title.

''(2) TIMELY DELIVERY OF SERVICES.—Each eligible managed care provider shall respond to requests from enrollees for the delivery of medical assistance in a manner which —

''(A) makes such assistance —

''(i) available and accessible to each such individual, within the area served by the provider, with reasonable promptness and in a manner which assures continuity; and

''(ii) when medically necessary, available and accessible 24 hours a day and 7 days a week; and

''(B) with respect to assistance provided to such an individual other than through the provider, or without prior authorization, in the case of a primary care case management provider, provides for reimbursement to the individual (if applicable under the contract between the State and the provider) if —

''(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition; and

''(ii) it was not reasonable given the circumstances to obtain the services through the provider, or, in the case of a primary care case management provider, with prior authorization.

''(3) EXTERNAL INDEPENDENT REVIEW OF ELIGIBLE MANAGED CARE PROVIDER ACTIVITIES.—

''(A) REVIEW OF MEDICAID MANAGED CARE PLAN CONTRACT.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), each medicaid managed care plan shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in such plan's contract with the State under section 1932(a)(1)(B). Such review shall specifically evaluate the extent to which the medicaid managed care plan provides such services in a timely manner.

''(ii) CONTENTS OF REVIEW.—An external independent review conducted under this paragraph shall include the following:

''(I) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

''(II) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

''(III) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

''(IV) other activities as prescribed by the Secretary or the State.

''(iii) AVAILABILITY OF RESULTS.—The results of each external independent review conducted under this subparagraph shall be available to participating health care providers, enrollees, and potential enrollees of the medicaid managed care plan, except that the results may not be made available in a manner that discloses the identity of any individual patient.

''(B) DEEMED COMPLIANCE.—

''(i) MEDICARE PLANS.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if the plan is an eligible organization with a contract in effect under section 1876.

''(ii) PRIVATE ACCREDITATION.—

''(I) IN GENERAL.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if—

''(aa) the plan is accredited by an organization meeting the requirements described in clause (iii); and

''(bb) the standards and process under which the plan is accredited meet such requirements as are established under subclause (II), without regard to whether or not the time requirement of such subclause is satisfied.

''(II) STANDARDS AND PROCESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall specify requirements for the standards and process under which a medicaid managed care plan is accredited by an organization meeting the requirements of clause (iii).

''(iii) ACCREDITING ORGANIZATION.—An accrediting organization meets the requirements of this clause if the organization—

''(I) is a private, nonprofit organization;

''(II) exists for the primary purpose of accrediting managed care plans or health care providers; and

''(III) is independent of health care providers or associations of health care providers.

''(C) REVIEW OF PRIMARY CARE CASE MANAGEMENT PROVIDER CONTRACT.—Each primary care case management provider shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case management provider under section 1932(a)(1)(B).

''(4) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to paragraph (3) and shall monitor the effectiveness of the State's monitoring and followup activities required under subparagraph (A) of paragraph (2). If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of paragraph (2) are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

''(5) PROVIDING INFORMATION ON SERVICES.—

''(A) REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

''(i) INFORMATION TO THE STATE.—Each medicaid managed care plan shall provide to the State (at such frequency as the Secretary may require), complete and timely information concerning the following:

''(I) The services that the plan provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title.

''(II) The identity, locations, qualifications, and availability of participating health care providers.

''(III) The rights and responsibilities of enrollees.

''(IV) The services provided by the plan which are subject to prior authorization by the plan as a condition of coverage (in accordance with paragraph (6)(A)).

''(V) The procedures available to an enrollee and a health care provider to appeal the failure of the plan to cover a service.

''(VI) The performance of the plan in serving individuals eligible for medical assistance under the State plan under this title.

''(ii) INFORMATION TO HEALTH CARE PROVIDERS, ENROLLEES, AND POTENTIAL ENROLLEES.—Each medicaid managed care plan shall—

''(I) upon request, make the information described in clause (i) available to participating health care providers, enrollees, and potential enrollees in the plan's service area; and

''(II) provide to enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the plan that are covered either directly or through a method of referral and prior authorization.

''(B) REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each primary care case management provider shall—

''(i) provide to the State (at such frequency as the Secretary may require), complete and timely information concerning the services that the primary care case management provider provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title;

''(ii) make available to enrollees and potential enrollees information concerning services available to the enrollee for which prior authorization by the primary care case management provider is required; and

''(iii) provide enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the primary care case management provider that are covered either directly or through a method of referral and prior authorization.

''(iv) provide assurances that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance.

''(C) REQUIREMENTS FOR BOTH MEDICAID MANAGED CARE PLANS AND PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each eligible managed care provider shall provide the State with aggregate encounter data for early and periodic screening, diagnostic, and treatment services under section 1905(r) furnished to individuals under 21 years of age. Any such data provided may be audited by the State and the Secretary.

''(6) TIMELINESS OF PAYMENT.—An eligible managed care provider shall make payment to health care providers for items and services which are subject to the contract under section 1931(a)(1)(B) and which are furnished to individuals eligible for medical assistance under the State plan under this title who are enrolled with the provider on a timely basis

and under the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the eligible managed care provider agree to an alternate payment schedule.

''(7) ADDITIONAL QUALITY ASSURANCE REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

''(A) CONDITIONS FOR PRIOR AUTHORIZATION.—A medicaid managed care plan may require the approval of medical assistance for nonemergency services before the assistance is furnished to an enrollee only if the system providing for such approval—

''(i) provides that such decisions are made in a timely manner, depending upon the urgency of the situation; and

''(ii) permits coverage of medically necessary medical assistance provided to an enrollee without prior authorization in the event of an emergency.

''(B) INTERNAL GRIEVANCE PROCEDURE.—Each medicaid managed care plan shall establish an internal grievance procedure under which a plan enrollee or a provider on behalf of such an enrollee who is eligible for medical assistance under the State plan under this title may challenge the denial of coverage of or payment for such assistance.

''(C) USE OF UNIQUE PHYSICIAN IDENTIFIER FOR PARTICIPATING PHYSICIANS.—Each medicaid managed care plan shall require each physician providing services to enrollees eligible for medical assistance under the State plan under this title to have a unique identifier in accordance with the system established under section 1902(x).

''(D) PATIENT ENCOUNTER DATA.—

''(i) IN GENERAL.—Each medicaid managed care plan shall maintain sufficient patient encounter data to identify the health care provider who delivers services to patients and to otherwise enable the State plan to meet the requirements of section 1902(a)(27). The plan shall incorporate such information in the maintenance of patient encounter data with respect to such health care provider.

''(ii) COMPLIANCE.—A medicaid managed care plan shall—

''(I) submit the data maintained under clause (i) to the State; or

''(II) demonstrate to the State that the data complies with managed care quality assurance guidelines established by the Secretary in accordance with clause (iii).

''(iii) STANDARDS.—In establishing managed care quality assurance guidelines under clause (ii)(II), the Secretary shall consider—

''(I) managed care industry standards for—

''(aa) internal quality assurance; and

''(bb) performance measures; and

''(II) any managed care quality standards established by the National Association of Insurance Commissioners.

(E) PAYMENTS TO HOSPITALS.—A medicaid managed care plan shall—

''(i) provide the State with assurances that payments for hospital services are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide such services to individuals enrolled with the plan under this title in conformity with applicable State and Federal laws, regulations, and quality and safety standards;

''(ii) report to the State at least annually—

''(I) the rates paid to hospitals by the plan for items and services furnished to such individuals,

''(II) an explanation of the methodology used to compute such rates, and

''(III) a comparison of such rates with the rates used by the State to pay for hospital services furnished to individuals who are eligible for benefits under the program established by the State under this title but are not enrolled in a medicaid managed care plan; and

''(iii) if the rates paid by the plan are lower than the rates paid by the State (as described in clause (ii)(III)), an explanation of why the rates paid by the plan nonetheless meet the standard described in clause (i).

''(d) DUE PROCESS REQUIREMENTS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

''(1) DENIAL OF OR UNREASONABLE DELAY IN DETERMINING COVERAGE AS GROUNDS FOR HEARING.—If an eligible managed care provider—

''(A) denies coverage of or payment for medical assistance with respect to an enrollee who is eligible for such assistance under the State plan under this title; or

''(B) fails to make any eligibility or coverage determination sought by an enrollee or, in the case of a medicaid managed care plan, by a participating health care provider or enrollee, in a timely manner, depending upon the urgency of the situation, the enrollee or the health care provider furnishing such assistance to the enrollee (as applicable) may obtain a hearing before the State agency administering the State plan under this title in accordance with section 1902(a)(3), but only, with respect to a medicaid managed care plan, after completion of the internal grievance procedure established by the plan under subsection (c)(6)(B).

''(2) COMPLETION OF INTERNAL GRIEVANCE PROCEDURE.—Nothing in this subsection shall require completion of an internal grievance procedure if such procedure does not exist or if the procedure does not provide for timely review of health needs considered by the enrollee's health care provider to be of an urgent nature.

''(e) MISCELLANEOUS.—

''(1) PROTECTING ENROLLEES AGAINST THE INSOLVENCY OF ELIGIBLE MANAGED CARE PROVIDERS AND AGAINST THE FAILURE OF THE STATE TO PAY SUCH PROVIDERS.—Each eligible managed care provider shall provide that an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider may not be held liable—

''(A) for the debts of the eligible managed care provider, in the event of the provider's insolvency;

''(B) for services provided to the individual—

''(i) in the event of the provider failing to receive payment from the State for such services; or

''(ii) in the event of a health care provider with a contractual or other arrangement with the eligible managed care provider failing to receive payment from the State or the eligible managed care provider for such services; or

''(C) for the debts of any health care provider with a contractual or other arrangement with the provider to provide services to the individual, in the event of the insolvency of the health care provider.

''(2) TREATMENT OF CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

''(A) IN GENERAL.—In the case of an enrollee of an eligible managed care provider who is a child with special health care needs—

''(i) if any medical assistance specified in the contract with the State is identified in a treatment plan prepared for the enrollee by a program described in subparagraph (C), the eligible managed care provider shall provide (or arrange to be provided) such assistance in accordance with the treatment plan either—

''(I) by referring the enrollee to a pediatric health care provider who is trained and experienced in the provision of such assistance and who has a contract with the eligible managed care provider to provide such assistance; or

''(II) if appropriate services are not available through the eligible managed care provider, permitting such enrollee to seek appropriate specialty services from pediatric health care providers outside of or apart from the eligible managed care provider; and

''(ii) the eligible managed care provider shall require each health care provider with whom the eligible managed care provider has entered into an agreement to provide medical assistance to enrollees to furnish the medical assistance specified in such enrollee's treatment plan to the extent the health care provider is able to carry out such treatment plan.

''(B) PRIOR AUTHORIZATION.—An enrollee referred for treatment under subparagraph (A)(i)(I), or permitted to seek treatment outside of or apart from the eligible managed care provider under subparagraph (A)(i)(II) shall be deemed to have obtained any prior authorization required by the provider.

''(C) CHILD WITH SPECIAL HEALTH CARE NEEDS.—For purposes of subparagraph (A), a child with special health care needs is a child who is receiving services under—

''(i) a program administered under part B or part H of the Individuals with Disabilities Education Act;

''(ii) a program for children with special health care needs under title V;

''(iii) a program under part B or part D of title IV; or

''(iv) any other program for children with special health care needs identified by the Secretary.

''(3) PHYSICIAN INCENTIVE PLANS.—Each medicaid managed care plan shall require that any physician incentive plan covering physicians who are participating in the medicaid managed care plan shall meet the requirements of section 1876(i)(8).

''(4) INCENTIVES FOR HIGH QUALITY ELIGIBLE MANAGED CARE PROVIDERS.—The Secretary and the State may establish a program to reward, through public recognition, incentive payments, or enrollment of additional individuals (or combinations of such rewards), eligible managed care providers that provide the highest quality care to individuals eligible for medical assistance under the State plan under this title who are enrolled with such providers. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.''.

(d) CLARIFICATION OF APPLICATION OF FFP DENIAL RULES TO PAYMENTS MADE PURSUANT TO MEDICAID MANAGED CARE PLANS.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by adding at the end the following sentence: ''Paragraphs (1)(A), (1)(B), (2), (5), and (12) shall apply with respect to items or services furnished and amounts expended by or through an eligible managed care provider (as defined in section 1933(a)(1)) in the same manner as such paragraphs apply to items or services furnished and amounts expended directly by the State.''.

(e) CLARIFICATION OF CERTIFICATION REQUIREMENTS FOR PHYSICIANS PROVIDING SERVICES TO CHILDREN AND PREGNANT WOMEN.—Section 1903(i)(12) of such Act (42 U.S.C. 1396b(i)(12)) is amended —

(1) in subparagraph (A)(i), to read as follows:

''(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in general practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association,'';

(2) in subparagraph (B)(i), to read as follows:

''(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics or is certified in family practice or obstetrics by the medical specialty board recognized by the American Osteopathic Association,''; and

(3) in both subparagraphs (A) and (B) —

(A) by striking ''or'' at the end of clause (v);

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following new clause:

''(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or''.

SEC. 7103. ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.

Section 1933 of the Social Security Act, as added by section 7102(c)(2), is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

''(d) ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

''(1) DEMONSTRATION OF ADEQUATE CAPACITY AND SERVICES.—

''(A) IN GENERAL.—Subject to subparagraph (C), each medicaid managed care plan shall provide the State and the Secretary with adequate assurances (as determined by the Secretary) that the plan, with respect to a service area —

''(i) has the capacity to serve the expected enrollment in such service area;

''(ii) offers an appropriate range of services for the population expected to be enrolled in such service area, including transportation services and translation services consisting of the principal languages spoken in the service area;

''(iii) maintains sufficient numbers of providers of services included in the contract with the State to ensure that services are available to individuals receiving medical assistance and enrolled in the plan to the same extent that such services are available to individuals enrolled in the plan who are not recipients of medical assistance under the State plan under this title;

''(iv) maintains extended hours of operation with respect to primary care services that are beyond those maintained during a normal business day;

''(v) provides preventive and primary care services in locations that are readily accessible to members of the community; and

''(vi) provides information concerning educational, social, health, and nutritional services offered by other programs for which enrollees may be eligible.

''(vii) complies with such other requirements relating to access to care as the Secretary or the State may impose.

''(B) PROOF OF ADEQUATE PRIMARY CARE CAPACITY AND SERVICES.—Subject to subparagraph (C), a medicaid managed care plan that contracts with a reasonable number of primary care providers (as determined by the Secretary) and whose primary care membership includes a reasonable number (as so determined) of the following providers will be deemed to have satisfied the requirements of subparagraph (A):

''(i) Rural health clinics, as defined in section 1905(l)(1).

''(ii) Federally-qualified health centers, as defined in section 1905(l)(2)(B).

''(iii) Clinics which are eligible to receive payment for services provided under title X of the Public Health Service Act.

''(C) SUFFICIENT PROVIDERS OF SPECIALIZED SERVICES.—Notwithstanding subparagraphs (A) and (B), a medicaid managed care plan may not be considered to have satisfied the requirements of subparagraph (A) if the plan does not have a sufficient number (as determined by the Secretary) of providers of specialized services, including perinatal and pediatric specialty care, to ensure that such services are available and accessible.

''(2) WRITTEN PROVIDER PARTICIPATION AGREEMENTS FOR CERTAIN PROVIDERS.—Each medicaid managed care plan that enters into a written provider participation agreement with a provider described in paragraph (1)(B) shall—

''(A) include terms and conditions that are no more restrictive than the terms and conditions that the medicaid managed care plan includes in its agreements with other participating providers with respect to—

''(i) the scope of covered services for which payment is made to the provider;

''(ii) the assignment of enrollees by the plan to the provider;

''(iii) the limitation on financial risk or availability of financial incentives to the provider;

''(iv) accessibility of care;

''(v) professional credentialing and recredentialing;

''(vi) licensure;

''(vii) quality and utilization management;

''(viii) confidentiality of patient records;

''(ix) grievance procedures; and

''(x) indemnification arrangements between the plans and providers; and

''(B) provide for payment to the provider on a basis that is comparable to the basis on which other providers are paid.''.

SEC. 7104. PREVENTING FRAUD IN MEDICAID MANAGED CARE.

(a) IN GENERAL.—Section 1933 of the Social Security Act, as added by section 7102(c)(2) and amended by section 7103, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f) ANTI-FRAUD PROVISIONS.—

''(1) PROVISIONS APPLICABLE TO ELIGIBLE MANAGED CARE PROVIDERS.—

''(A) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

''(i) IN GENERAL.—An eligible managed care provider may not knowingly—

''(I) have a person described in clause (iii) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the plan's equity; or

''(II) have an employment, consulting, or other agreement with a person described in clause (iii) for the provision of items and services that are significant and material to the organization's obligations under its contract with the State.

''(ii) EFFECT OF NONCOMPLIANCE.—If a State finds that an eligible managed care provider is not in compliance with subclause (I) or (II) of clause (i), the State—

''(I) shall notify the Secretary of such noncompliance;

''(II) may continue an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

''(III) may not renew or otherwise extend the duration of an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

''(iii) PERSONS DESCRIBED.—A person is described in this clause if such person—

''(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting;

''(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in clause (i); or

''(III) is excluded from participation in any program under title XVIII or any State health care program, as defined in section 1128(h).

''(B) RESTRICTIONS ON MARKETING.—

''(i) DISTRIBUTION OF MATERIALS.—

''(I) IN GENERAL.—An eligible managed care provider may not distribute marketing materials within any State—

''(aa) without the prior approval of the State; and

''(bb) that contain false or materially misleading information.

''(II) PROHIBITION.—The State may not enter into or renew a contract with an eligible managed care provider for the provision of services to individuals enrolled under the State plan under this title if the State determines that the provider intentionally distributed false or materially misleading information in violation of subclause (I)(bb).

''(ii) SERVICE MARKET.—An eligible managed care provider shall distribute marketing materials to the entire service area of such provider.

''(iii) PROHIBITION OF TIE-INS.—An eligible managed care provider, or any agency of such provider, may not seek to influence an individual's enrollment with the provider in conjunction with the sale of any other insurance.

''(iv) PROHIBITING MARKETING FRAUD.—Each eligible managed care provider shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the provider, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll.

''(2) PROVISIONS APPLICABLE ONLY TO MEDICAID MANAGED CARE PLANS.—

''(A) STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—A medicaid managed care plan may not enter into a contract with any State under section 1932(a)(1)(B) unless the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such plans or to the default enrollment process described in section 1932(a)(1)(D)(iv) that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.

''(B) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—In addition to any requirements applicable under section 1902(a)(27) or 1902(a)(35), a medicaid managed care plan shall—

''(i) report to the State (and to the Secretary upon the Secretary's request) such financial information as the State or the Secretary may require to demonstrate that—

''(I) the plan has the ability to bear the risk of potential financial losses and otherwise has a fiscally sound operation;

''(II) the plan uses the funds paid to it by the State and the Secretary for activities consistent with the requirements of this title and the contract between the State and plan; and

''(III) the plan does not place an individual physician, physician group, or other health care provider at substantial risk (as determined by the Secretary) for services not provided by such physician, group, or health care provider, by providing adequate protection (as determined by the Secretary) to limit the liability of such physician, group,

or health care provider, through measures such as stop loss insurance or appropriate risk corridors;

''(ii) agree that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the plan (and of any subcontractor) relating to the information reported pursuant to clause (i) and any information required to be furnished under section paragraphs (27) or (35) of section 1902(a);

''(iii) make available to the Secretary and the State a description of each transaction described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act between the plan and a party in interest (as defined in section 1318(b) of such Act); and

''(iv) agree to make available to its enrollees upon reasonable request—

''(I) the information reported pursuant to clause (i); and

''(II) the information required to be disclosed under sections 1124 and 1126.

''(C) ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

''(i) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, including appropriate equity standards, under which each medicaid managed care plan shall make adequate provision against the risk of insolvency.

''(ii) CONSIDERATION OF OTHER STANDARDS.—In establishing the standards described in clause (i), the Secretary shall consider solvency standards applicable to eligible organizations with a risk-sharing contract under section 1876.

''(iii) MODEL CONTRACT ON SOLVENCY.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines and regulations shall take into account characteristics that may differ among risk contracting entities including whether such an entity is at risk for inpatient hospital services.

''(D) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—Each medicaid managed care plan shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

''(i) the most recent audited financial statement of the plan's net earnings, in accordance with guidelines established by the Secretary in consultation with the States, and consistent with generally accepted accounting principles; and

''(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the plan and entitled to medical assistance under the State plan under this title.''.

SEC. 7105. ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS.

Title XIX of the Social Security Act, as amended by sections 7001, 7101(a), and 7102(c), is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1933 the following new section:

''ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS

''SEC. 1934. As a condition of approval of a State plan under this title, a State shall—

''(1) find, determine, and make assurances satisfactory to the Secretary that—

''(A) the rates it pays medicaid managed care plans for individuals eligible under the State plan are reasonable and adequate to assure access to services meeting professionally recognized quality standards, taking into account—

''(i) the items and services to which the rate applies,

''(ii) the eligible population, and

''(iii) the rate the State pays providers for such items and services; and

''(B) the methodology used to adjust the rate adequately reflects the varying risks associated with individuals actually enrolling in each medicaid managed care plan; and

''(2) report to the Secretary, at least annually, on—

''(A) the rates the States pays to medicaid managed care plans, and

''(B) the rates medicaid managed care plans pay for hospital services (and such other information as medicaid managed care plans are required to submit to the State pursuant to section 1933(c)(5)(E).''.

SEC. 7106. SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS.

(a) SANCTIONS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as previously amended, is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1934 the following new section:

''SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS

''SEC. 1935. (a) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—Each State shall establish intermediate sanctions, which may include any of the types described in subsection (b) other than the termination of a contract with an eligible managed care provider, which the State may impose against an eligible managed care provider with a contract under section 1932(a)(1)(B) if the provider—

''(1) fails substantially to provide medically necessary items and services that are required (under law or under such provider's contract with the State) to be provided to an enrollee covered under the contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) the enrollee;

''(2) imposes premiums on enrollees in excess of the premiums permitted under this title;

''(3) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, except as permitted by sections 1932 and 1933, or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment with the provider by eligible individuals whose medical condition or history indicates a need for substantial future medical services;

''(4) misrepresents or falsifies information that is furnished—

''(A) to the Secretary or the State under section 1932 or 1933; or

''(B) to an enrollee, potential enrollee, or a health care provider under such sections; or

''(5) fails to comply with the requirements of section 1876(i)(8).

''(b) INTERMEDIATE SANCTIONS.—The sanctions described in this subsection are as follows:

''(1) Civil money penalties as follows:

''(A) Except as provided in subparagraph (B), (C), or (D), not more than $25,000 for each determination under subsection (a).

''(B) With respect to a determination under paragraph (3) or (4)(A) of subsection (a), not more than $100,000 for each such determination.

''(C) With respect to a determination under subsection (a)(2), double the excess amount charged in violation of such subsection (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned).

''(D) Subject to subparagraph (B), with respect to a determination under subsection (a)(3), $15,000 for each individual not enrolled as a result of a practice described in such subsection.

''(2) The appointment of temporary management to oversee the operation of the eligible managed care provider and to assure the health of the provider's enrollees, if there is a need for temporary management while—

''(A) there is an orderly termination or reorganization of the eligible managed care provider; or

''(B) improvements are made to remedy the violations found under subsection (a), except that temporary management under this paragraph may not be terminated until the State has determined that the eligible managed care provider has the capability to ensure that the violations shall not recur.

''(3) Permitting individuals enrolled with the eligible managed care provider to terminate enrollment without cause, and notifying such individuals of such right to terminate enrollment.

''(c) TREATMENT OF CHRONIC SUBSTANDARD PROVIDERS.—In the case of an eligible managed care provider which has repeatedly failed to meet the requirements of section 1932 or 1933, the State shall (regardless of what other sanctions are provided) impose the sanctions described in paragraphs (2) and (3) of subsection (b).

''(d) AUTHORITY TO TERMINATE CONTRACT.—In the case of an eligible managed care provider which has failed to meet the requirements of section 1932 or 1933, the State shall have the authority to terminate its contract with such provider under section 1932(a)(1)(B) and to enroll such provider's enrollees with other eligible managed care providers (or to permit such enrollees to receive medical assistance under the State plan under this title other than through an eligible managed care provider).

''(e) AVAILABILITY OF SANCTIONS TO THE SECRETARY.—

''(1) INTERMEDIATE SANCTIONS.—In addition to the sanctions described in paragraph (2) and any other sanctions available under law, the Secretary may provide for any of the sanctions described in subsection (b) if the Secretary determines that—

''(A) an eligible managed care provider with a contract under section 1932(a)(1)(B) fails to meet any of the requirements of section 1932 or 1933; and

''(B) the State has failed to act appropriately to address such failure.

''(2) DENIAL OF PAYMENTS TO THE STATE.—The Secretary may deny payments to the State for medical assistance furnished under the contract under section 1932(a)(1)(B) for individuals enrolled after the date the Secretary notifies an eligible managed care provider of a determination under subsection (a) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(f) DUE PROCESS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

''(1) AVAILABILITY OF HEARING PRIOR TO TERMINATION OF CONTRACT.—A State may not terminate a contract with an eligible managed care provider under section 1932(a)(1)(B) unless the provider is provided with a hearing prior to the termination.

''(2) NOTICE TO ENROLLEES OF TERMINATION HEARING.—A State shall notify all individuals enrolled with an eligible managed care provider which is the subject of a hearing to terminate the provider's contract with the State of the hearing and that the enrollees

may immediately disenroll with the provider for cause.

''(3) OTHER PROTECTIONS FOR ELIGIBLE MANAGED CARE PROVIDERS AGAINST SANCTIONS IMPOSED BY STATE.—Before imposing any sanction against an eligible managed care provider other than termination of the provider's contract, the State shall provide the provider with notice and such other due process protections as the State may provide, except that a State may not provide an eligible managed care provider with a pretermination hearing before imposing the sanction described in subsection (b)(2).

''(4) IMPOSITION OF CIVIL MONETARY PENALTIES BY SECRETARY.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply with respect to a civil money penalty imposed by the Secretary under subsection (b)(1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A.''.

(b) CONFORMING AMENDMENT RELATING TO TERMINATION OF ENROLLMENT FOR CAUSE.—Section 1933(b)(2)(B) of the Social Security Act, as added by this part, is amended by inserting after ''coercion'' the following: '', or pursuant to the imposition against the eligible managed care provider of the sanction described in section 1935(b)(3),''.

SEC. 7107. REPORT ON PUBLIC HEALTH SERVICES.

(a) IN GENERAL.—Not later than January 1, 1994, the Secretary of Health and Human Services (in this subtitle referred to as the ''Secretary'') shall report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on the effect of risk contracting entities (as defined in section 1932(a)(3) of the Social Security Act) and primary care case management entities (as defined in section 1932(a)(1) of such Act) on the delivery of and payment for the services listed in subsection (f)(2)(C)(ii) of section 1932 of such Act.

(b) CONTENTS OF REPORT.—The report referred to in subsection (a) shall include—

(1) information on the extent to which enrollees with risk contracting entities and primary care case management programs seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(2) information on the extent to which the facilities described in paragraph (1) provide services to enrollees with risk contracting entities and primary care case management programs without receiving payment;

(3) information on the effectiveness of systems implemented by facilities described in paragraph (1) for educating such enrollees on services that are available through the risk contracting entities or primary care case management programs with which such enrollees are enrolled;

(4) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(5) recommendations about how to ensure the timely delivery of the services listed in subsection (f)(2)(C)(ii) of section 1931 of the Social Security Act to enrollees of risk contracting entities and primary care case management entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

SEC. 7108. REPORT ON PAYMENTS TO HOSPITALS.

(a) IN GENERAL.—Not later than October 1 of each year, beginning with October 1, 1996, the Secretary and the Comptroller General shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on rates paid for hospital services under coordinated care programs described in section 1932 of the Social Security Act.

(b) CONTENTS OF REPORT.—The information in the report described in subsection (a) shall—

(1) be organized by State, type of hospital, type of service, and

(2) include a comparison of rates paid for hospital services under coordinated care programs with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled in such coordinated care programs.

(c) REPORTS BY STATES.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1932(b)(3)(P) of such Act.

SEC. 7109. CONFORMING AMENDMENTS.

(a) EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN PROGRAM.—Section 1128(b)(6)(C) of the Social Security Act (42 U.S.C. 1320a-7(b)(6)(C)) is amended—

(1) in clause (i), by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''an eligible managed care provider, as defined in section 1933(a)(1),''; and

(2) in clause (ii), by inserting ''section 1115 or'' after ''approved under''.

(b) STATE PLAN REQUIREMENTS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(30)(C), by striking ''section 1903(m)'' and inserting ''section 1932(a)(1)(B)''; and

(2) in subsection (a)(57), by striking ''hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A))'' and inserting ''or hospice program'';

(3) in subsection (e)(2)(A), by striking ''or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or

(6) of section 1903(m) under a contract described in section 1903(m)(2)(A);

(4) in subsection (p)(2)—

(A) by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''an eligible managed care provider, as defined in section 1933(a)(1),'';

(B) by striking ''an organization'' and inserting ''a provider''; and

(C) by striking ''any organization'' and inserting ''any provider''; and

(5) in subsection (w)(1), by striking ''sections 1903(m)(1)(A) and'' and inserting ''section''.

(c) PAYMENT TO STATES.—Section 1903(w)(7)(A)(viii) of such Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

''(viii) Services of an eligible managed care provider with a contract under section 1932(a)(1)(B).''.

(d) USE OF ENROLLMENT FEES AND OTHER CHARGES.—Section 1916 of such Act (42 U.S.C. 1396o) is amended in subsections (a)(2)(D) and (b)(2)(D) by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''an eligible managed care provider, as defined in section 1933(a)(1),'' each place it appears.

(e) EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.—Section 1925(b)(4)(D)(iv) of such Act (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended to read as follows:

''(iv) ENROLLMENT WITH ELIGIBLE MANAGED CARE PROVIDER.—Enrollment of the caretaker relative and dependent children with an eligible managed care provider, as defined in section 1933(a)(1), less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through an eligible managed care provider in accordance with sections 1932, 1933, and 1934.''.

(f) ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES.—Section 1926(a) of such Act (42 U.S.C. 1396r-7(a)) is amended in paragraphs (1) and (2) by striking ''health maintenance organizations under section 1903(m)'' and inserting ''eligible managed care providers under contracts entered into under section 1932(a)(1)(B)'' each place it appears.

(g) PAYMENT FOR COVERED OUTPATIENT DRUGS.—Section 1927(j)(1) of such Act (42 U.S.C. 1396r-8(j)(1)) is amended by striking ''***Health Maintenance Organizations, including those organizations that contract under section 1903(m),'' and inserting ''health maintenance organizations and medicaid managed care plans, as defined in section 1933(a)(2),''.

(h) DEMONSTRATION PROJECTS TO STUDY EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE FOR CERTAIN FAMILIES.—Section 4745(a)(5)(A) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note) is amended by striking ''(except section 1903(m)'' and inserting ''(except sections 1932, 1933, and 1934)''.

SEC. 7110. EFFECTIVE DATE; STATUS OF WAIVERS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to medical assistance furnished—

(1) during quarters beginning on or after October 1, 1996; or

(2) in the case of assistance furnished under a contract described in section 7102(b), during quarters beginning after the earlier of—

(A) the date of the expiration of the contract; or

(B) the expiration of the 1-year period which begins on the date of the enactment of this Act.

(b) APPLICATION TO WAIVERS.—

(1) EXISTING WAIVERS.—If any waiver granted to a State under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), is in effect or approved by the Secretary of Health and Human Services as of the applicable effective date described in subsection (a), the amendments made by this subtitle shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

(2) SECRETARIAL EVALUATION AND REPORT FOR EXISTING WAIVERS AND EXTENSIONS.—

(A) PRIOR TO APPROVAL.—On and after the applicable effective date described in subsection (a), the Secretary, prior to extending any waiver granted under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), shall—

(i) conduct an evaluation of—

(I) the waivers existing under such sections or other provision of law as of the date of the enactment of this Act; and

(II) any applications pending, as of the date of the enactment of this Act, for extensions of waivers under such sections or other provision of law; and

(ii) submit a report to the Congress recommending whether the extension of a waiver under such sections or provision of law should be conditioned on the State submitting the request for an extension complying with the provisions of sections 1932, 1933, and 1934 of the Social Security Act (as added by this subtitle).

(B) DEEMED APPROVAL.—If the Congress has not enacted legislation based on a report submitted under subparagraph (A)(ii) within 120 days after the date such report is submitted to the Congress, the recommendations contained in such report shall be deemed to be approved by the Congress.

Subtitle C—Additional Reforms of Medicaid Acute Care Program

SEC. 7201. PERMITTING INCREASED FLEXIBILITY IN MEDICAID COST-SHARING.

(a) IN GENERAL.—Subsections (a)(3) and (b)(3) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are amended by striking everything that follows ''other care and services'' and inserting the following: ''will be established pursuant to a public schedule of charges and will be adjusted to reflect the income, resources, and family size of the individual provided the item or service.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 7202. LIMITS ON REQUIRED COVERAGE OF ADDITIONAL TREATMENT SERVICES UNDER EPSDT.

(a) REGULATIONS.—The Secretary of Health and Human Services shall define, by regulation promulgated after consultation with States and organizations representing health care providers, those treatment services (in addition to those otherwise covered under a State plan under title XIX of the Social Security Act) that must be covered under section 1905(r)(5) of such Act.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as limiting the scope of such treatment services a State may cover under such section.

SEC. 7203. DELAY IN APPLICATION OF NEW REQUIREMENTS.

(a) DELAY IN IMPLEMENTATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no change in law—

(A) which has the effect of imposing a requirement on a State under a State plan under title XIX of the Social Security Act, and

(B) with respect to the Secretary of Health and Human Services is required to issue regulations to carry out such requirement,

shall take effect until the date the Secretary promulgates such regulation as a final regulation.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect to have a change in a law described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(b) PROHIBITION OF CHANGES IN FINAL REGULATIONS DURING A FISCAL YEAR.—

(1) IN GENERAL.—Except as provided in paragraph (2), any change in a regulation of the Secretary of Health and Human Services relating to the medicaid program under title XIX of the Social Security Act shall not become effective until the beginning of the fiscal year following the fiscal year in which the change was promulgated.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect to have a change in a regulation described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(c) SENSE OF CONGRESS REGARDING FEDERAL PAYMENT FOR NEW MEDICAID MANDATES.—It is the sense of Congress that if a State is required by future legislation to provide for additional services, eligible individuals, or otherwise incur additional costs under its medicaid program under title XIX of the Social Security Act, the Federal Government shall provide for full payment of any such additional costs for at least the first two years in which such requirement applies.

SEC. 7204. DEADLINE ON ACTION ON WAIVERS.

(a) IN GENERAL.—In considering applications for medicaid waivers—

(1) the application shall be deemed granted unless the Secretary of Health and Human Services, within ninety days after the date of the submission of the application of the Secretary, either denies the application in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application, and

(2) after the date the Secretary receives such additional information, the application shall be deemed granted unless the Secretary within ninety days of such date, denies such application.

(b) MEDICAID WAIVERS.—In this section, the term ''medicaid waiver'' means the request of a State for a waiver of a provision of title XIX of the Social Security Act (or of another provision of law that applies to State plans under such title), and includes such a waiver under the authority of section 1115 or section 1915 of the Social Security Act or under section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967.

Subtitle D—National Commission on Medicaid Restructuring

SEC. 7301. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—There is hereby established the National Commission on Medicaid Restructuring (in this subtitle referred to as the ''Commission'').

(b) COMPOSITION.—The Commission shall be composed as follows:

(1) 2 FEDERAL OFFICIALS.—The President shall appoint 2 Federal officials, one of whom the President shall designate as chairperson of the Commission.

(2) 4 MEMBERS OF CONGRESS.—(A) The Speaker of the House of Representatives shall appoint one Member of the House as a member.

(B) The minority leader of the House of Representatives shall appoint one Member of the House as a member.

(C) The majority leader of the Senate shall appoint one Member of the Senate as a member.

(D) The minority leader of the Senate shall appoint one Member of the Senate as a member.

(3) 6 STATE GOVERNMENT REPRESENTATIVES.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(B) The minority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(4) 6 EXPERTS.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 4 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(B) The President shall appoint 2 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(c) INITIAL APPOINTMENT.—Members of the Commission shall first be appointed by not later than February 1, 1996.

(d) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission shall serve without compensation.

(2) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 7302. DUTIES OF COMMISSION.

(a) STUDY OF MEDICAID PROGRAM.—

(1) IN GENERAL.—The Commission shall study and make recommendations to the Congress, the President, and the Secretary regarding the need for changes (in addition to the changes effected under this title) in the laws and regulations regarding the medicaid program under title XIX of the Social Security Act.

(2) SPECIFIC CONCERNS.—The Commission shall specifically address each of the following:

(A) Changes needed to ensure adequate access to health care for low-income individuals.

(B) Promotion of quality care.

(C) Deterrence of fraud and abuse.

(D) Providing States with additional flexibility in implementing their medicaid plans.

(E) Methods of containing Federal and State costs.

(b) REPORTS.—

(1) FIRST REPORT.—The Commission shall issue a first report to Congress by not later than December 31, 1996.

(2) SUBSEQUENT REPORTS.—The Commission shall issue subsequent reports to Congress by not later than December 31, 1997, and December 31, 1998.

SEC. 7303. ADMINISTRATION.

(a) APPOINTMENT OF STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chairperson with the approval of the Commission. The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level III of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the Executive Director may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(3) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(b) PROVISION OF ADMINISTRATIVE SUPPORT SERVICES BY HHS.—Upon the request of the Commission, the Secretary of Health and Human Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 7304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $3,000,000 for fiscal year 1996, $4,000,000 for each of fiscal years 1997 and 1998, and $2,000,000 for fiscal year 1999.

SEC. 7305. TERMINATION.

The Commission shall terminate on December 31, 1998.

Subtitle E—Restrictions on Disproportionate Share Payments

SEC. 7401. REFORMING DISPROPORTIONATE SHARE PAYMENTS UNDER STATE MEDICAID PROGRAMS.

(a) TARGETING PAYMENTS.—Section 1923 of the Social Security Act (42 U.S.C.1396r–3) is amended—

(1) in subsection (a)(1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(B) by striking ''(1)'' and inserting ''(1)(A)'',

(C) in clause (i) (as so redesignated) by striking ''(b)(1)'' and inserting ''(b)(1)(A)'', and

(D) by adding at the end the following:

''(B) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State has submitted to the Secretary, by not later than such date, an amendment to such plan that utilizes the definition of such hospitals specified in subsection (b)(1)(B) in lieu of the definition established by the State under subparagraph (a)(i).'';

(2) in subsection (a)(2)(A)—

(A) by inserting ''(i)'' after ''(2)(A)'',

(B) by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)(i)'', and

(C) by adding at the end the following:

''(ii) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1996, the State must submit to the Secretary by not later than April 1, 1996, the State plan amendment described in paragraph (1)(B), consistent with subsection (c), effective for inpatient hospital services furnished on or after July 1, 1996.'';

(3) in subsection (b)—

(A) in the heading, by striking ''HOSPITALS DEEMED DISPROPORTIONATE SHARE'' and inserting ''DISPROPORTIONATE SHARE HOSPITALS'',

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(ii) by striking ''(1) For purposes of subsection (a)(1)'' and inserting ''(1)(A) For purposes of subsection (a)(1)(A)'', and

(iii) by adding at the end the following:

''(B) For purposes of subsection (a)(1)(B), a hospital that meets the requirements of subsection (d) is a disproportionate share hospital only if—

''(i) in the case of a hospital that is not described in subsection (d)(2)(A)(i), the hospital's low-income utilization rate (as defined in paragraph (3)) exceeds 25 percent; or

''(ii) in the case of a hospital that is described in subsection (d)(2)(A)(i)—

''(I) the hospital meets the requirement of clause (i), or

''(II) the hospital's medicaid inpatient utilization rate (as defined in paragraph (2)) exceeds 20 percent.'';

(C) in paragraph (2) by striking ''(1)(A)'' and inserting ''(1)'',

(D) in paragraph (3) by striking ''(1)(B)'' and inserting ''(1)'', and

(E) by striking paragraph (4);

(4) in subsection (c)—

(A) in paragraph (2), by striking ''subparagraph (A) or (B) of subsection (b)(1)'' and inserting ''clause (i) or (ii) of subsection (b)(1)(A)'',

(B) by striking paragraph (3), and

(C) in the matter following paragraph (3)—

(i) by striking ''(1)(B)'' each place it appears and inserting ''(1)(A)(ii)'', and

(ii) by striking ''(2)(A)'' each place it appears and inserting ''(2)(A)(i)'' ; and

(5) in subsection (e)—

(A) in paragraph (1)(C), by striking ''meets the requirement of subsection (d)(3)'' and inserting ''makes payments under this section only to hospitals described in subsection (b)(1)(B)'', and

(B) in paragraph (2)—

(i) by inserting ''and'' at the end of subparagraph (B), and

(ii) by striking subparagraph (C).

(b) DIRECT PAYMENT BY STATE.—Section 1923(a) of such Act (42 U.S.C. 1396r–4(a)), as amended by subsection (a), is further amended—

(1) in paragraph (1), by adding at the end the following

''(C) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State provides that any payments made under this section with respect to individuals who are—

''(i) entitled to benefits under the State plan, and

''(ii) enrolled with a health maintenance organization or other managed care plan,

are, at the option of the hospital, made directly to such hospital by the State.''; and

(2) in paragraph (2)(A)(ii), by striking ''amendment described in paragraph (1)(B)'' and inserting ''amendments described in subparagraphs (B) and (C) of paragraph (1)''.

(c) ADJUSTMENT TO NATIONAL DSH LIMIT; STATE ALLOCATIONS.—

(1) IN GENERAL.—Section 1923(f) (42 U.S.C. 1396r–4(f)) is amended—

(A) in paragraph (1)(B), by striking ''for a fiscal year'' and all that follows and inserting the following: ''for—

''(i) each of fiscal years 1997 and 1998, is $6.5 billion,

''(ii) each of fiscal years 1999 and 2000, is $5.5 billion,

''(iii) each succeeding fiscal year is $5.0 billion.'';

(B) by striking subparagraphs (D) and (E) of paragraph (1); and

(C) by amending paragraph (2) to read as follows:

''(2) DETERMINATION OF STATE DSH ALLOTMENTS.—

''(A) IN GENERAL.—The State DSH allotment for a fiscal year is equal to the State's share (as determined under subparagraph (B)) of the national DSH limit for the fiscal year established under paragraph (1)(B).

''(B) STATE SHARE.—For purposes of subparagraph (A), the 'State share' is equal to the ratio of—

''(i) the total number low-income patient days (as defined in subparagraph (C)) for all hospitals described in subsection (b)(1)(B) in the State for the fiscal year, to

''(ii) the total number of such low-income patient days for all such hospitals for all States for the fiscal year.

The Secretary shall determine the State share based on the Secretary's best estimate of patient days and hospitals.

''(C) LOW-INCOME PATIENT DAY.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'low-income patient day' means, for a hospital, a patient day (as defined in clause (ii)) attributable to an individual who either is eligible for medical assistance under the State plan or has no health insurance (or other source of third party coverage) for services furnished by the hospital.

''(ii) PATIENT DAYS DEFINED.—For purposes of this subparagraph, the term 'patient day' includes each day in which—

''(I) an individual (including a new-born) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere, and

''(II) an individual makes one or more outpatient visits to the hospital.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1997.

(d) EFFECTIVE DATE.—Except as provided in subsection (c)(2), the amendments made by this section shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans after—

(1) July 1, 1996, or

(2) in the case of a State with a State legislature that is not scheduled to have a regular legislative session in 1996, July 1, 1997.

Subtitle F—Fraud Reduction

SEC. 7501. MONITORING PAYMENTS FOR DUAL ELIGIBLES.

The Administrator of the Health Care Financing Administration shall develop mechanisms to better monitor and prevent inappropriate payments under the medicaid program in the case of individuals who are dually eligible for benefits under such program and under the medicare program.

SEC. 7502. IMPROVED IDENTIFICATION SYSTEMS.

The Administrator of the Health Care Financing Administration shall develop improved mechanisms, such as picture identification documents and smart documents, to provide methods of improved identification and tracking of beneficiaries and providers that perpetrate fraud against the medicaid program.

TITLE VIII—MEDICARE

SEC. 8000. SHORT TITLE; REFERENCES IN TITLE.

(a) SHORT TITLE OF TITLE.—This title may be cited as the ''Medicare Preservation Act of 1995''.

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

(c) REFERENCES TO OBRA.—In this title, the terms ''OBRA–1986'', ''OBRA–1987'', ''OBRA–1989'', ''OBRA–1990'', and ''OBRA–1993'' refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

Subtitle A—Medicare Choice Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

SEC. 8001. INCREASING CHOICE UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

''PROVIDING FOR CHOICE OF COVERAGE

''SEC. 1805. (a) CHOICE OF COVERAGE.—

''(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

''(A) THROUGH FEE-FOR-SERVICE SYSTEM.—Through the provisions of parts A and B.

''(B) THROUGH A MEDICARE CHOICE PRODUCT.—Through a Medicare Choice product (as defined in paragraph (2)), which may be—

''(i) a product offered by a provider-sponsored organization,

''(ii) a product offered by an organization that is a union, Taft-Hartley plan, or association, or

''(iii) a product providing for benefits on a fee-for-service or other basis.

Such a product may be a high deductible/medisave product (and a contribution into a Medicare Choice medical savings account (MSA)) under the demonstration project provided under section 1859.

''(2) MEDICARE CHOICE PRODUCT DEFINED.—For purposes of this section and part C, the term 'Medicare Choice product' means health benefits coverage offered under a policy, contract, or plan by a Medicare Choice organization (as defined in section 1851(a)) pursuant to and in accordance with a contract under section 1858.

''(3) TERMINOLOGY RELATING TO OPTIONS.—For purposes of this section and part C—

''(A) NON-MEDICARE-CHOICE OPTION.—An individual who has made the election described in paragraph (1)(A) is considered to have elected the 'Non-Medicare Choice option'.

''(B) MEDICARE CHOICE OPTION.—An individual who has made the election described in paragraph (1)(B) to obtain coverage through a Medicare Choice product is considered to have elected the 'Medicare Choice option' for that product.

''(b) SPECIAL RULES.—

''(1) RESIDENCE REQUIREMENT.—Except as the Secretary may otherwise provide, an individual is eligible to elect a Medicare Choice product offered by a Medicare Choice organization only if the organization in relation to the product serves the geographic area in which the individual resides.

''(2) AFFILIATION REQUIREMENTS FOR CERTAIN PRODUCTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a Medicare Choice product offered by a limited enrollment Medicare Choice organization (as defined in section 1852(c)(4)(D)) only if—

''(i) the individual is eligible under section 1852(c)(4) to make such election, and

''(ii) in the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)), the individual elected under this section a Medicare Choice product offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor.

''(B) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PRODUCTS.—An individual is not eligible to elect a Medicare Choice product offered by a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor if the individual previously had elected a Medicare Choice product offered by the organization and had subsequently discontinued to elect such a product offered by the organization.

''(c) PROCESS FOR EXERCISING CHOICE.—

''(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

''(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for Medicare Choice products in an area as soon as such products become available in that area.

''(3) COORDINATION THROUGH MEDICARE CHOICE ORGANIZATIONS.—

''(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a Medicare Choice product offered by a Medicare Choice organization to make such election through the filing of an appropriate election form with the organization.

''(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a Medicare Choice product offered by a Medicare Choice organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

''(4) DEFAULT.—

''(A) INITIAL ELECTION.—

''(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Non-Medicare Choice option.

''(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a Medicare Choice organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected an appropriate Medicare Choice product offered by the organization.

''(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

''(i) the individual changes the election under this section, or

''(ii) a Medicare Choice product is discontinued, if the individual had elected such product at the time of the discontinuation.

''(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the Medicare Choice program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in Medicare Choice products under this section.

''(d) PROVISION OF BENEFICIARY INFORMATION TO PROMOTE INFORMED CHOICE.—

''(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to disseminate broadly information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options. Such information shall be made available on such a timely basis (such as 6 months before the date an individual would first attain eligibility for medicare on the basis of age) as to permit individuals to elect the Medicare Choice option during the initial election period described in subsection (e)(1).

''(2) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

''(3) SPECIFIC ACTIVITIES.—In carrying out this subsection, the Secretary shall provide for at least the following activities in all areas in which Medicare Choice products are offered:

''(A) INFORMATION BOOKLET.—

''(i) IN GENERAL.—The Secretary shall publish an information booklet and disseminate the booklet to all individuals eligible to elect the Medicare Choice option under this section during coverage election periods.

''(ii) INFORMATION INCLUDED.—The booklet shall include information presented in plain English and in a standardized format regarding—

''(I) the benefits (including cost-sharing) and premiums for the various Medicare Choice products in the areas involved;

''(II) the quality of such products, including consumer satisfaction information; and

''(III) rights and responsibilities of medicare beneficiaries under such products.

''(iii) PERIODIC UPDATING.—The booklet shall be updated on a regular basis (not less often than once every 12 months) to reflect changes in the availability of Medicare Choice products and the benefits and premiums for such products.

''(B) TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding Medicare Choice options and the operation of part C.

''(C) GENERAL INFORMATION IN MEDICARE HANDBOOK.—The Secretary shall include information about the Medicare Choice option provided under this section in the annual notice of medicare benefits under section 1804.

''(e) COVERAGE ELECTION PERIODS.—

''(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—

''(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a Medicare Choice product during the period, coverage under the product becomes effective as of the first date on which the individual may receive such coverage.

''(B) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a Medicare Choice product is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

''(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—

''(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICARE CHOICE OPTION.—During the transition period, an individual who is eligible to make an election under this section and who has elected the non-Medicare Choice option may change such election to a Medicare Choice option at any time.

''(B) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—During the transition period, an individual who has elected a Medicare Choice option for a Medicare Choice product may change such election to another Medicare Choice product or to the non-Medicare Choice option.

''(3) ANNUAL, COORDINATED ELECTION PERIOD.—

''(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during annual, coordinated election periods.

''(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.

''(C) MEDICARE CHOICE HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform individuals, who are eligible to elect Medicare Choice products, about

such products and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

''(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—

''(A) IN GENERAL.—In the case of the first time an individual elects a Medicare Choice option under this section, the individual may discontinue such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the Medicare Choice product under such option becomes effective.

''(B) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under this paragraph shall be deemed at the time of such discontinuation to have elected the Non-Medicare Choice option.

''(5) SPECIAL ELECTION PERIODS.—An individual may discontinue an election of a Medicare Choice product offered by a Medicare Choice organization other than during an annual, coordinated election period and make a new election under this section if—

''(A) the organization's or product's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the product;

''(B) in the case of an individual who has elected a Medicare Choice product offered by a Medicare Choice organization, the individual is no longer eligible to elect the product because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a product offered by a qualified association or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1852(c)(3)(B));

''(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

''(i) the organization offering the product substantially violated a material provision of the organization's contract under part C in relation to the individual and the product; or

''(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the product's provisions in marketing the product to the individual; or

''(D) the individual meets such other conditions as the Secretary may provide.

''(f) EFFECTIVENESS OF ELECTIONS.—

''(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

''(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a Medicare Choice option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

''(3) ANNUAL, COORDINATED ELECTION PERIOD AND MEDISAVE ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

''(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

''(g) EFFECT OF ELECTION OF MEDICARE CHOICE OPTION.—Subject to the provisions of section 1855(f), payments under a contract with a Medicare Choice organization under section 1858(a) with respect to an individual electing a Medicare Choice product offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual.

''(h) DEMONSTRATION PROJECTS.—The Secretary shall conduct demonstration projects to test alternative approaches to coordinated open enrollments in different markets, including different annual enrollment periods and models of rolling open enrollment periods. The Secretary may waive previous provisions of this section in order to carry out such projects.''.

SEC. 8002. MEDICARE CHOICE PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

''PART C—PROVISIONS RELATING TO MEDICARE CHOICE

''REQUIREMENTS FOR MEDICARE CHOICE ORGANIZATIONS

''SEC. 1851. (a) MEDICARE CHOICE ORGANIZATION DEFINED.—In this part, subject to the succeeding provisions of this section, the term 'Medicare Choice organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

''(b) ORGANIZED AND LICENSED UNDER STATE LAW.—

''(1) IN GENERAL.—A Medicare Choice organization shall be organized and licensed under State law to offer health insurance or health benefits coverage in each State in which it offers a Medicare Choice product.

''(2) EXCEPTION FOR UNION AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to an Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)).

''(3) EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—Subject to paragraph (5), paragraph (1) shall not apply to a Medicare Choice organization that is a provider-sponsored organization (as defined in section 1854(a)).

''(4) EXCEPTION FOR QUALIFIED ASSOCIATIONS.—Paragraph (1) shall not apply to a Medicare Choice organization that is a qualified association (as defined in section 1852(c)(4)(B)).

''(5) LIMITATION.—Effective on and after January 1, 2000, paragraph (1) shall only apply (and paragraph (3) shall no longer apply) to a Medicare Choice organization in a State if the standards for licensure of the organization under the law of the State are identical to the standards established under section 1856(b).

''(c) PREPAID PAYMENT.—A Medicare Choice organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

''(d) ASSUMPTION OF FULL FINANCIAL RISK.—The Medicare Choice organization shall assume full financial risk on a prospective basis for the provision of the health care services (other than hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

''(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

''(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

''(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

''(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)) or a qualified association (as defined in section 1852(c)(4)(B)), this subsection shall not apply with respect to Medicare Choice products offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

''(e) PROVISION AGAINST RISK OF INSOLVENCY.—

''(1) IN GENERAL.—Each Medicare Choice organization shall meet standards under section 1856 relating to the financial solvency and capital adequacy of the organization. Such standards shall take into account the nature and type of Medicare Choice products offered by the organization.

''(2) TREATMENT OF TAFT-HARTLEY SPONSORS.—An entity that is a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

''(3) TREATMENT OF CERTAIN QUALIFIED ASSOCIATIONS.—An entity that is a qualified association is deemed to meet the requirement of paragraph (1) with respect to Medicare Choice products offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

''(f) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1997:

''(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

''(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—

''(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

''(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

''(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section

1876 as of the date of the enactment of this section.

''REQUIREMENTS RELATING TO BENEFITS, PROVISION OF SERVICES, ENROLLMENT, AND PREMIUMS

''SEC. 1852. (a) BENEFITS COVERED.—

''(1) IN GENERAL.—Each Medicare Choice product offered under this part shall provide benefits for at least the items and services for which benefits are available under parts A and B consistent with the standards for coverage of such items and services applicable under this title.

''(2) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare Choice organization may (in the case of the provision of items and services to an individual under this part under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

''(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

''(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

''(3) SATISFACTION OF REQUIREMENT.—A Medicare Choice product offered by a Medicare Choice organization satisfies paragraph (1) with respect to benefits for items and services if the following requirements are met:

''(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the product provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

''(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

''(i) NON-MEDICARE CHOICE LIABILITY.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had elected the non-Medicare Choice option.

''(ii) MEDICARE COINSURANCE APPLIED TO PRODUCT PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the non-Medicare Choice option) of the payment rate provided under the contract.

''(b) ANTIDISCRIMINATION.—A Medicare Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

''(c) GUARANTEED ISSUE AND RENEWAL.—

''(1) IN GENERAL.—Except as provided in this subsection, a Medicare Choice organization shall provide that at any time during which elections are accepted under section 1805 with respect to a Medicare Choice product offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

''(2) PRIORITY.—If the Secretary determines that a Medicare Choice organization, in relation to a Medicare Choice product it offers, has a capacity limit and the number of eligible individuals who elect the product under section 1805 exceeds the capacity limit, the organization may limit the election of individuals of the product under such section but only if priority in election is provided—

''(A) first to such individuals as have elected the product at the time of the determination, and

''(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the product) on a basis described in subsection (b).

''(3) LIMITATION ON TERMINATION OF ELECTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), a Medicare Choice organization may not for any reason terminate the election of any individual under section 1805 for a Medicare Choice product it offers.

''(B) BASIS FOR TERMINATION OF ELECTION.—A Medicare Choice organization may terminate an individual's election under section 1805 with respect to a Medicare Choice product it offers if—

''(i) any premiums required with respect to such product are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of premiums),

''(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

''(iii) the product is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Non-Medicare Choice option (as defined in section 1805(a)(3)(A)).

''(C) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1858, each Medicare Choice organization receiving an election form under section 1805(c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

''(4) SPECIAL RULES FOR LIMITED ENROLLMENT MEDICARE CHOICE ORGANIZATIONS.—

''(A) TAFT-HARTLEY SPONSORS.—

''(i) IN GENERAL.—Subject to subparagraph (D), a Medicare Choice organization that is a Taft-Hartley sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are entitled to obtain benefits through such products under the terms of an applicable collective bargaining agreement.

''(ii) TAFT-HARTLEY SPONSOR.—In this part and section 1805, the term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

''(B) QUALIFIED ASSOCIATIONS.—

''(i) IN GENERAL.—Subject to subparagraph (D), a Medicare Choice organization that is a qualified association (as defined in clause (iii)) shall limit eligibility of individuals under this part for products it offers to individuals who are members of the association (or who are spouses of such individuals).

''(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association offering a Medicare Choice product to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

''(iii) QUALIFIED ASSOCIATION.—In this part and section 1805, the term 'qualified association' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

''(I) has been formed for purposes other than the sale of any health insurance and does not restrict membership based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual,

''(II) does not exist solely or principally for the purpose of selling insurance, and

''(III) has at least 1,000 individual members or 200 employer members.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

''(C) UNIONS.—

''(i) IN GENERAL.—Subject to subparagraph (D), a union sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

''(ii) UNION SPONSOR.—In this part and section 1805, the term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

''(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

''(E) LIMITED ENROLLMENT MEDICARE CHOICE ORGANIZATION.—In this part and section 1805, the term 'limited enrollment Medicare Choice organization' means a Medicare Choice organization that is a union sponsor, a Taft-Hartley sponsor, or a qualified association.

''(F) EMPLOYER, ETC.—In this paragraph, the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

''(d) SUBMISSION AND CHARGING OF PREMIUMS.—

''(1) IN GENERAL.—Each Medicare Choice organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

''(A) the amount of the monthly premiums for coverage under each Medicare Choice product it offers under this part in each payment area (as determined for purposes of section 1855) in which the product is being offered; and

''(B) the enrollment capacity in relation to the product in each such area.

''(2) AMOUNTS OF PREMIUMS CHARGED.—The amount of the monthly premium charged by a Medicare Choice organization for a Medicare Choice product offered in a payment area to an individual under this part shall be equal to the amount (if any) by which—

''(A) the amount of the monthly premium for the product for the period involved, as established under paragraph (3) and submitted under paragraph (1), exceeds

''(B) 1/12 of the annual Medicare Choice capitation rate specified in section 1855(b)(2) for the area and period involved.

''(3) UNIFORM PREMIUM.—The premiums charged by a Medicare Choice organization under this part may not vary among individuals who reside in the same payment area.

''(4) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of monthly premiums on a monthly basis and may terminate election of individuals for a Medicare

Choice product for failure to make premium payments only in accordance with subsection (c)(3)(B).

''(5) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a Medicare Choice organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (to the extent attributable to the minimum benefits described in subsection (a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a Medicare Choice organization.

''(e) REQUIREMENT FOR ADDITIONAL BENEFITS, PART B PREMIUM DISCOUNT REBATES, OR BOTH.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—Each Medicare Choice organization (in relation to a Medicare Choice product it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the product for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis) of the part B monthly premium, or a combination thereof, in an total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

''(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a product, is the amount (if any) by which—

''(i) the average of the capitation payments made to the organization under this part for the product at the beginning of contract year, exceeds

''(ii) the actuarial value of the minimum benefits described in subsection (a)(1) under the product for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

''(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a product, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

''(D) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a product in a service area.

''(E) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a Medicare Choice organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

''(2) LIMITATION ON AMOUNT OF PART B PREMIUM DISCOUNT REBATE.—In no case shall the amount of a part B premium discount rebate under paragraph (1)(A) exceed, with respect to a month, the amount of premiums imposed under part B (not taking into account section 1839(b) (relating to penalty for late enrollment) or 1839(h) (relating to affluence testing)), for the individual for the month. Except as provided in the previous sentence, a Medicare Choice organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

''(3) STABILIZATION FUND.—A Medicare Choice organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the Medicare Choice product in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

''(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

''(5) ADJUSTED COMMUNITY RATE.—

''(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a Medicare Choice organization, either—

''(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a Medicare Choice product under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

''(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other Medicare Choice coverage, or individuals in the area, in the State, or in the United States, eligible to elect Medicare Choice coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

''(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a Medicare Choice organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a Medicare Choice product may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product.

''(f) RULES REGARDING PHYSICIAN PARTICIPATION.—

''(1) PROCEDURES.—Each Medicare Choice organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under Medicare Choice products offered by the organization under this part. Such procedures shall include—

''(A) providing notice of the rules regarding participation,

''(B) providing written notice of participation decisions that are adverse to physicians, and

''(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

''(2) CONSULTATION IN MEDICAL POLICIES.—A Medicare Choice organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

''(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

''(A) IN GENERAL.—Each Medicare Choice organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

''(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

''(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

''(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

''(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

''(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

''(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a Medicare Choice organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

''(4) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

''(g) PROVISION OF INFORMATION.—A Medicare Choice organization shall provide the Secretary with such information on the organization and each Medicare Choice product it offers as may be required for the preparation of the information booklet described in section 1805(d)(3)(A).

''(h) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE CHOICE

Product.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its medicaid program under title XIX with those provided under a Medicare Choice product in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.

''PATIENT PROTECTION STANDARDS

''SEC. 1853. (a) DISCLOSURE TO ENROLLEES.—A Medicare Choice organization shall disclose in clear, accurate, and standardized form, information regarding all of the following for each Medicare Choice product it offers:

''(1) Benefits under the Medicare Choice product offered, including exclusions from coverage.

''(2) Rules regarding prior authorization or other review requirements that could result in nonpayment.

''(3) Potential liability for cost-sharing for out-of-network services.

''(4) The number, mix, and distribution of participating providers.

''(5) The financial obligations of the enrollee, including premiums, deductibles, copayments, and maximum limits on out-of-pocket losses for items and services (both in and out of network).

''(6) Statistics on enrollee satisfaction with the product and organization, including rates of reenrollment.

''(7) Enrollee rights and responsibilities, including the grievance process provided under subsection (f).

''(8) A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

''(9) A description of the organization's quality assurance program under subsection (d).

Such information shall be disclosed to each enrollee under this part at the time of enrollment and at least annually thereafter.

''(b) ACCESS TO SERVICES.—

''(1) IN GENERAL.—A Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

''(A) the organization makes such benefits available and accessible to each individual electing the product within the product service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

''(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

''(C) the product provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

''(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

''(ii) it was not reasonable given the circumstances to obtain the services through the organization; and

''(D) coverage is provided for emergency services (as defined in paragraph (5)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

''(2) MINIMUM PAYMENT LEVELS WHERE PROVIDING POINT-OF-SERVICE COVERAGE.—If a Medicare Choice product provides benefits for items and services (not described in paragraph (1)(C)) through a network of providers and also permits payment to be made under the product for such items and services not provided through such a network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

''(A) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

''(B) the amount charged by the entity furnishing such items and services.

''(3) PROTECTION OF ENROLLEES FOR CERTAIN OUT-OF-NETWORK SERVICES.—

''(A) PARTICIPATING PROVIDERS.—In the case of physicians' services or renal dialysis services described in subparagraph (C) which are furnished by a participating physician or provider of services or renal dialysis facility to an individual enrolled with a Medicare Choice organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services or renal dialysis facility will accept as payment in full from the organization the amount that would be payable to the physician or provider of services or renal dialysis facility under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.

''(B) NONPARTICIPATING PROVIDERS.—In the case of physicians' services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a Medicare Choice organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

''(C) SERVICES DESCRIBED.—The physicians' services or renal dialysis services described in this subparagraph are physicians' services or renal dialysis services which are furnished to an enrollee of a Medicare Choice organization under this part by a physician, provider of services, or renal dialysis facility who is not under a contract with the organization.

''(4) PROTECTION FOR NEEDED SERVICES.—A Medicare Choice organization that provides covered services through a network of providers shall provide coverage of services provided by a provider that is not part of the network if the service cannot be provided by a provider that is part of the network and the organization authorized the service directly or through referral by the primary care physician who is designated by the organization for the individual involved.

''(5) EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

''(A) health care items and services furnished in the emergency department of a hospital, and

''(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (6)) until the condition is stabilized.

''(6) EMERGENCY MEDICAL CONDITION.—In paragraph (5), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(A) placing the person's health in serious jeopardy,

''(B) serious impairment to bodily functions, or

''(C) serious dysfunction of any bodily organ or part.

''(7) PROTECTION AGAINST BALANCE BILLING.—The limitations on billing that apply to a provider (including a physician) under parts A and B in the case of an individual electing the non-Medicare Choice option shall apply to an individual who elects the Medicare Choice option in the case of any provider that (under the Medicare Choice option) may bill the enrollee directly for services.

''(c) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each Medicare Choice organization shall establish procedures—

''(1) to safeguard the privacy of individually identifiable enrollee information, and

''(2) to maintain accurate and timely medical records for enrollees.

''(d) QUALITY ASSURANCE PROGRAM.—

''(1) IN GENERAL.—Each Medicare Choice organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals.

''(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

''(A) stress health outcomes;

''(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

''(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

''(D) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions;

''(E) evaluates the continuity and coordination of care that enrollees receive;

''(F) has mechanisms to detect both underutilization and overutilization of services;

''(G) after identifying areas for improvement, establishes or alters practice parameters;

''(H) takes action to improve quality and assesses the effectiveness of such action through systematic follow-up;

''(I) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

''(J) is evaluated on an ongoing basis as to its effectiveness; and

''(K) provide for external accreditation or review, by a utilization and quality control peer review organization under part B of title XI or other qualified independent review organization, of the quality of services furnished by the organization meets professionally recognized standards of health care (including providing adequate access of enrollees to services).

''(3) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—Paragraph (1) and subsection (c)(2) shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product to the extent the organization provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the plan for the provision of such benefits.

''(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a Medicare Choice organization is deemed to meet the requirements of paragraphs (1) and (2) of this subsection and subsection (c) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the

standards established under section 1856 to carry out this subsection and subsection (c).

''(e) COVERAGE DETERMINATIONS.—

''(1) DECISIONS ON NONEMERGENCY CARE.—A Medicare Choice organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

''(2) APPEALS.—

''(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

''(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

''(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

''(f) GRIEVANCES AND APPEALS.—

''(1) GRIEVANCE MECHANISM.—Each Medicare Choice organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees under this part.

''(2) APPEALS.—An enrollee with an organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

''(3) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503.

''(g) INFORMATION ON ADVANCE DIRECTIVES.—Each Medicare Choice organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

''(h) APPROVAL OF MARKETING MATERIALS.—

''(1) SUBMISSION.—Each Medicare Choice organization may not distribute marketing materials unless—

''(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and

''(B) the Secretary has not disapproved the distribution of such material.

''(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

''(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a Medicare Choice product in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the product and organization.

''(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each Medicare Choice organization shall conform to fair marketing standards in relation to Medicare Choice products offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form under section 1805 on behalf of any individual.

''(i) ADDITIONAL STANDARDIZED INFORMATION ON QUALITY, OUTCOMES, AND OTHER FACTORS.—

''(1) IN GENERAL.—In addition to any other information required to be provided under this part, each Medicare Choice organization shall provide the Secretary (at a time, not less frequently than annually, and in an electronic, standardized form and manner specified by the Secretary) such information as the Secretary determines to be necessary, consistent with this part, to evaluate the performance of the organization in providing benefits to enrollees.

''(2) INFORMATION TO BE INCLUDED.—Subject to paragraph (3), information to be provided under this subsection shall include at least the following:

''(A) Information on the characteristics of enrollees that may affect their need for or use of health services and the determination of risk-adjusted payments under section 1855.

''(B) Information on the types of treatments and outcomes of treatments with respect to the clinical health, functional status, and well-being of enrollees.

''(C) Information on health care expenditures and the volume and prices of procedures.

''(D) Information on the flexibility permitted by plans to enrollees in their selection of providers.

''(3) SPECIAL TREATMENT.—The Secretary may waive the provision of such information under paragraph (2), or require such other information, as the Secretary finds appropriate in the case of a newly established Medicare Choice organization for which such information is not available.

''(j) DEMONSTRATION PROJECTS.—The Secretary shall provide for demonstration projects to determine the effectiveness, cost, and impact of alternative methods of providing comparative information about the performance of Medicare Choice organizations and products and the performance of medicare supplemental policies in relation to such products. Such projects shall include information about health care outcomes resulting from coverage under different products and policies.

''PROVIDER-SPONSORED ORGANIZATIONS

''SEC. 1854. (a) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

''(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity that (in accordance with standards established under subsection (b)) is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary under such standards) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

''(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

''(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

''(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

''(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

''(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

''(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

''(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

''(D) both providers are part of an affiliated service group under section 414 of such Code.

''(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

''(b) PREEMPTION OF STATE INSURANCE LICENSING REQUIREMENTS.—

''(1) IN GENERAL.—This section supersedes any State law which—

''(A) requires that a provider-sponsored organization meet requirements for insurers of health services or health maintenance organizations doing business in the State with respect to initial capitalization and establishment of financial reserves against insolvency, or

''(B) imposes requirements that would have the effect of prohibiting the organization from complying with the applicable requirements of this part,

insofar as such the law applies to individuals enrolled with the organization under this part.

''(2) EXCEPTION FOR IDENTICAL STANDARDS.—Paragraph (1) shall not apply with respect to any State law to the extent that such law provides the application of standards that are identical to the standards established for provider-sponsored organizations under this part.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.

''PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS

''SEC. 1855. (a) PAYMENTS.—

''(1) IN GENERAL.—Under a contract under section 1858 the Secretary shall pay to each Medicare Choice organization, with respect to coverage of an individual under this part in a payment area for a month, an amount equal to the monthly adjusted Medicare Choice capitation rate (as provided under subsection (b)) with respect to that individual for that area.

''(2) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide

notice to interested parties) not later than September 7 before the calendar year concerned—

''(A) the annual Medicare Choice capitation rate for each payment area for the year, and

''(B) the factors to be used in adjusting such rates under subsection (b) for payments for months in that year.

''(3) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to Medicare Choice organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

''(4) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (2) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that Medicare Choice organizations can compute monthly adjusted Medicare Choice capitation rates for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

''(b) MONTHLY ADJUSTED MEDICARE CHOICE CAPITATION RATE.—

''(1) IN GENERAL.—For purposes of this section, the 'monthly adjusted Medicare Choice capitation rate' under this subsection, for a month in a year for an individual in a payment area (specified under paragraph (3)) and in a class (established under paragraph (4)), is 1/12 of the annual Medicare Choice capitation rate specified in paragraph (2) for that area for the year, adjusted to reflect the actuarial value of benefits under this title with respect to individuals in such class compared to the national average for individuals in all classes.

''(2) ANNUAL MEDICARE CHOICE CAPITATION RATES.—

''(A) IN GENERAL.—For purposes of this section, the annual Medicare Choice capitation rate for a payment area for a year is equal to the annual Medicare Choice capitation rate for the area for the previous year (or, in the case of 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for the area for 1995) increased by the per capita growth rate for that area and year (as determined under subsection (c)).

''(B) SPECIAL RULES FOR 1996.—

''(i) FLOOR AT 85 PERCENT OF NATIONAL AVERAGE.—In no case shall the annual Medicare Choice capitation rate for a payment area for 1996 be less than 85 percent of the national average of such rates for such year for all payment areas (weighted to reflect the number of medicare beneficiaries in each such area).

''(ii) REMOVAL OF MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—In determining the annual Medicare Choice capitation rate for 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for 1995 shall be determined as though the Secretary had excluded from such rate any amounts which the Secretary estimated would have been payable under this title during the year for—

''(I) payment adjustments under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients; and

''(II) the indirect costs of medical education under section 1886(d)(5)(B) or for direct graduate medical education costs under section 1886(h).

''(3) PAYMENT AREA DEFINED.—

''(A) IN GENERAL.—In this section, the term 'payment area' means—

''(i) a metropolitan statistical area, or

''(ii) all areas of a State outside of such an area.

''(B) SPECIAL RULE FOR ESRD BENEFICIARIES.—Such term means, in the case of the population group described in paragraph (5)(C), each State.

''(4) CLASSES.—

''(A) IN GENERAL.—For purposes of this section, the Secretary shall define appropriate classes of enrollees, consistent with paragraph (5), based on age, gender, welfare status, institutionalization, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

''(B) RESEARCH.—The Secretary shall conduct such research as may be necessary to provide for greater accuracy in the adjustment of capitation rates under this subsection. Such research may include research into the addition or modification of classes under subparagraph (A). The Secretary shall submit to Congress a report on such research by not later than January 1, 1997.

''(5) DIVISION OF MEDICARE POPULATION.—In carrying out paragraph (4) and this section, the Secretary shall recognize the following separate population groups:

''(A) AGED.—Individuals 65 years of age or older who are not described in subparagraph (C).

''(B) DISABLED.—Disabled individuals who are under 65 years of age and not described in subparagraph (C).

''(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Individuals who are determined to have end stage renal disease.

''(c) PER CAPITA GROWTH RATES.—

''(1) FOR 1996.—

''(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the per capita growth rates for 1996, for a payment area assigned to a service utilization cohort under subsection (d), shall be the following:

''(i) BELOW AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the below average service utilization cohort, 9.6 percent.

''(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the above average service utilization cohort, 4.8 percent.

''(iii) HIGHEST SERVICE UTILIZATION COHORT.—For areas assigned to the highest service utilization cohort, 2.1 percent.

''(B) BUDGET NEUTRAL ADJUSTMENT.—The Secretary shall adjust the per capita growth rates specified in subparagraph (A) for all the areas by such uniform factor as may be necessary to assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate, specified in paragraph (3) for 1996.

''(2) FOR SUBSEQUENT YEARS.—

''(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the Secretary shall compute a per capita growth rate for each year after 1996, for each payment area as assigned to a service utilization cohort under subsection (d), consistent with the following rules:

''(i) BELOW AVERAGE SERVICE UTILIZATION COHORT SET AT 143 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the below average service utilization cohort for the year shall be 160 percent of the national average per capita growth rate for the year (as specified under paragraph (3)).

''(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT SET AT 80 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the above average service utilization cohort for the year shall be 80 percent of the national average per capita growth rate for the year.

''(iii) HIGHEST SERVICE UTILIZATION COHORT SET AT 40 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the highest service utilization cohort for the year shall be 35 percent of the national average per capita growth rate for the year.

''(B) AVERAGE PER CAPITA GROWTH RATE AT NATIONAL AVERAGE TO ASSURE BUDGET NEUTRALITY.—The Secretary shall compute per capita growth rates for a year under subparagraph (A) in a manner so that the weighted average per capita growth rate for all areas for the year (weighted to reflect the number of medicare beneficiaries in each area) is equal to the national average per capita growth rate under paragraph (3) for the year.

''(3) NATIONAL AVERAGE PER CAPITA GROWTH RATES.—In this subsection, the 'national average per capita growth rate' for—

''(A) 1996 is 6.0 percent,

''(B) 1997 is 6.0 percent,

''(C) 1998 is 6.0 percent,

''(D) 1999 is 5.5 percent,

''(E) 2000 is 5.5 percent,

''(F) 2001 is 5.5 percent,

''(G) 2002 is 5.5 percent, and

''(H) each subsequent year is 5.5 percent.

''(d) ASSIGNMENT OF PAYMENT AREAS TO SERVICE UTILIZATION COHORTS.—

''(1) IN GENERAL.—For purposes of determining per capita growth rates under subsection (c) for areas for a year, the Secretary shall assign each payment area to a service utilization cohort (based on the service utilization index value for that area determined under paragraph (2)) as follows:

''(A) BELOW AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of less than 1.00 shall be assigned to the below average service utilization cohort.

''(B) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.00 but less than 1.20 shall be assigned to the above average service utilization cohort.

''(C) HIGHEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.20 shall be assigned to the highest service utilization cohort.

''(2) DETERMINATION OF SERVICE UTILIZATION INDEX VALUES.—In order to determine the per capita growth rate for a payment area for each year (beginning with 1996), the Secretary shall determine for such area and year a service utilization index value, which is equal to—

''(A) the annual Medicare Choice capitation rate under this section for the area for the year in which the determination is made (or, in the case of 1996, the average annual per capita rate of payment (described in section 1876(a)(1)(C)) for the area for 1995); divided by

''(B) the input-price-adjusted annual national Medicare Choice capitation rate (as determined under paragraph (3)) for that area for the year in which the determination is made.

''(3) DETERMINATION OF INPUT-PRICE-ADJUSTED RATES.—

''(A) IN GENERAL.—For purposes of paragraph (2), the 'input-price-adjusted annual national Medicare Choice capitation rate' for a payment area for a year is equal to the sum, for all the types of medicare services

(as classified by the Secretary), of the product (for each such type) of—

''(i) the national standardized Medicare Choice capitation rate (determined under subparagraph (B)) for the year,

''(ii) the proportion of such rate for the year which is attributable to such type of services, and

''(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

''(B) NATIONAL STANDARDIZED MEDICARE CHOICE CAPITATION RATE.—In this paragraph, the 'national standardized Medicare Choice capitation rate' for a year is equal to—

''(i) the sum (for all payment areas) of the product of (I) the annual Medicare Choice capitation rate for that year for the area under subsection (b)(2), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

''(ii) the total average number of medicare beneficiaries residing in all the payment areas for that year.

''(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

''(i) medicare services shall be divided into 2 types of services: part A services and part B services;

''(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

''(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

''(II) for part B services, 100 percent minus the ratio described in subclause (I);

''(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

''(iv) for part B services—

''(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

''(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

''(v) the index values shall be computed based only on the beneficiary population described in subsection (b)(5)(A).

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

''(e) PAYMENT PROCESS.—

''(1) IN GENERAL.—Subject to section 1859(f), the Secretary shall make monthly payments under this section in advance and in accordance with the rate determined under subsection (a) to the plan for each individual enrolled with a Medicare Choice organization under this part.

''(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

''(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

''(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a Medicare Choice organization under a product operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

''(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1853(a) at the time the individual enrolled with the organization.

''(f) PAYMENTS FROM TRUST FUND.—The payment to a Medicare Choice organization under this section for individuals enrolled under this part with the organization, and payments to a Medicare Choice MSA under subsection (f)(1)(B), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

''(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

''(1) election under this part of a Medicare Choice product offered by a Medicare Choice organization—

''(A) payment for such services until the date of the individual's discharge shall be made under this title through the Medicare Choice product or Non-Medicare Choice option (as the case may be) elected before the election with such organization,

''(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

''(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

''(2) termination of election with respect to a Medicare Choice organization under this part—

''(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

''(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding Medicare Choice organization, and

''(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

''ESTABLISHMENT OF STANDARDS FOR MEDICARE CHOICE ORGANIZATIONS AND PRODUCTS

''SEC. 1856. (a) INTERIM STANDARDS.—

''(1) IN GENERAL.—The Secretary shall issue regulations regarding standards for Medicare Choice organizations and products within 180 days after the date of the enactment of this section. Such regulations shall be issued on an interim basis, but shall become effective upon publication and shall be effective through the end of 1999.

''(2) SOLICITATION OF VIEWS.—In developing standards under this subsection relating to solvency of Medicare Choice organizations, the Secretary shall solicit the views of the American Academy of Actuaries.

''(3) EFFECT ON STATE REGULATIONS.—Regulations under this subsection shall not preempt State regulations for Medicare Choice organizations for products not offered under this part.

''(b) PERMANENT STANDARDS.—

''(1) IN GENERAL.—The Secretary shall develop permanent standards under this subsection.

''(2) CONSULTATION.—In developing standards under this subsection, the Secretary shall consult with the National Association of Insurance Commissioners, associations representing the various types of Medicare Choice organizations, and medicare beneficiaries.

''(3) EFFECTIVENESS.—The standards under this subsection shall take effect for periods beginning on or after January 1, 2000.

''(c) SOLVENCY.—In establishing interim and permanent standards under this section relating to solvency of organizations, the Secretary shall recognize the multiple means of demonstrating solvency, including—

''(1) reinsurance purchased through a recognized commerce company or through a capitive company owned directly or indirectly by 3 or more provider-sponsored organizations,

''(2) unrestricted surplus,

''(3) guarantees, and

''(4) letters of credit.

In such standards, the Secretary may treat as admitted assets the assets used by a provider-sponsored organization in delivering covered services.

''(d) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a Medicare Choice organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

''(e) RELATION TO STATE LAWS.—The standards established under this section shall supersede any State law. The standard or regulation with respect to Medicare Choice products which are offered by Medicare Choice organizations and are issued by organizations to which section 1851(b)(1) applies, to the extent such law or regulation is inconsistent with such standards.

''MEDICARE CHOICE CERTIFICATION

''SEC. 1857. (a) IN GENERAL.—

''(1) ESTABLISHMENT.—The Secretary shall establish a process for the certification of organizations and products offered by organizations as meeting the applicable standards for Medicare Choice organizations and Medicare Choice products established under section 1856.

''(2) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

''(3) USE OF PRIVATE ACCREDITATION PROCESSES.—

''(A) IN GENERAL.—The process under this subsection shall, to the maximum extent practicable, provide that Medicare Choice organizations and products that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or product.

''(B) PERIODIC ACCREDITATION.—The use of an accreditation under subparagraph (A) shall be valid only for such period as the Secretary specifies.

''(4) USER FEES.—The Secretary may impose user fees on entities seeking certification under this subsection in such amounts as the Secretary deems sufficient to finance the costs of such certification.

''(b) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a Medicare Choice organization or product is decertified under this section, the organization shall notify each enrollee with the organization and product under this part of such decertification.

''(c) QUALIFIED ASSOCIATIONS.—In the case of Medicare Choice products offered by a Medicare Choice organization that is a qualified association (as defined in section 1854(c)(4)(C)) and issued by an organization to which section 1851(b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)), nothing in this section shall be construed as limiting the authority of States to regulate such products.

''CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS

''SEC. 1858. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of a Medicare Choice product offered by a Medicare Choice organization under this part, and no payment shall be made under section 1856 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such product. Such a contract with an organization may cover more than one Medicare Choice product. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

''(b) ENROLLMENT REQUIREMENTS.—

''(1)(A) MINIMUM ENROLLMENT REQUIREMENT.—Subject to subparagraphs (B) and (C), the Secretary may not enter into a contract under this section with a Medicare Choice organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

''(B) ALLOWING TRANSITION.—The Secretary may waive the requirement of subparagraph (A) during the first 3 contract years with respect to an organization.

''(C) TREATMENT OF AREAS WITH LOW MANAGED CARE PENETRATION.—The Secretary may waive the requirement of subparagraph (A) in the case of organizations operating in areas in which there is a low proportion of medicare beneficiaries who have made the Medicare Choice election.

''(2) REQUIREMENT FOR ENROLLMENT OF NONMEDICARE BENEFICIARIES.—

''(A) IN GENERAL.—Each Medicare Choice organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) an organization that has been certified by a national organization recognized by the Secretary and has been found to have met performance standards established by the Secretary for at least 2 years, or

''(ii) a provider-sponsored organization for which commercial payments to providers participating in the organization exceed the payments to the organization under this part.

''(C) MODIFICATION AND WAIVER.—The Secretary may modify or waive the requirement imposed by subparagraph (A)—

''(i) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX, or

''(ii) in the case of an organization that is owned and operated by a governmental entity, only with respect to a period of three years beginning on the date the organization first enters into a contract under this section, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

''(D) ENFORCEMENT.—If the Secretary determines that an organization has failed to comply with the requirements of this paragraph, the Secretary may provide for the suspension of enrollment of individuals under this part or of payment to the organization under this part for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.

''(c) CONTRACT PERIOD AND EFFECTIVENESS.—

''(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

''(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the Medicare Choice organization if the Secretary determines that the organization—

''(A) has failed substantially to carry out the contract;

''(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part;

''(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

''(D) no longer substantially meets the applicable conditions of this part.

''(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract.

''(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a Medicare Choice organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

''(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

''(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

''(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

''(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

''(B) shall have the right to audit and inspect any books and records of the Medicare Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

''(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

''(3) DISCLOSURE.—

''(A) IN GENERAL.—Each Medicare Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

''(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

''(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

''(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

''(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

''(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

''(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

''(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

''(i) any director, officer, partner, or employee responsible for management or administration of a Medicare Choice organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare Choice organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

''(ii) any entity in which a person described in clause (i)—

''(I) is an officer or director;

''(II) is a partner (if such entity is organized as a partnership);

''(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

''(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

''(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

''(iv) any spouse, child, or parent of an individual described in clause (i).

''(C) ACCESS TO INFORMATION.—Each Medicare Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

''(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

''(f) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

''(g) INTERMEDIATE SANCTIONS.—

''(1) IN GENERAL.—If the Secretary determines that a Medicare Choice organization with a contract under this section—

''(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

''(B) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

''(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

''(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

''(E) misrepresents or falsifies information that is furnished—

''(i) to the Secretary under this part, or

''(ii) to an individual or to any other entity under this part;

''(F) fails to comply with the requirements of section 1852(f)(3); or

''(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

''(2) REMEDIES.—The remedies described in this paragraph are—

''(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

''(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

''(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

''(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

''(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

''(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

''(4) PROCEDURES FOR IMPOSING SANCTIONS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

''(h) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a Medicare Choice organization under this section or may impose the intermediate sanctions described in subsection (g) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(1) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

''(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

''(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

''DEMONSTRATION PROJECT FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCTS

''SEC. 1859. (a) PERMITTING DEMONSTRATION PROJECTS.—

''(1) IN GENERAL.—The Secretary shall permit, on a demonstration project basis, the offering of high deductible/medisave products under this part, subject to the special rules provided under this section.

''(2) LIMITATION ON NUMBER AND DURATION OF PROJECTS.—The Secretary shall not permit under this section the offering of more than 10 demonstration projects and each such project shall not exceed 7 years in duration.

''(b) HIGH DEDUCTIBLE/MEDISAVE PRODUCT DEFINED.—

''(1) IN GENERAL.—In this part, the term 'high deductible/medisave product' means a Medicare Choice product that—

''(A) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the product) equal to the amount of a deductible (described in paragraph (2));

''(B) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B or by the enrollee if the enrollee had elected to receive benefits through the provisions of such parts; and

''(C) provides, after such deductible is met for a year and for all subsequent expenses for benefits referred to in subparagraph (A) in the year, for a level of reimbursement that is not less than—

''(i) 100 percent of such expenses, or

''(ii) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less. Such term does not include the Medicare Choice MSA itself or any contribution into such account.

''(2) DEDUCTIBLE.—The amount of deductible under a high deductible/medisave product—

''(A) for contract year 1997 shall be not more than $10,000; and

''(B) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this paragraph increased by the national average per capita growth rate under section 1855(c)(3) for the year.

If the amount of the deductible under subparagraph (B) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

''(c) SPECIAL RULES RELATING TO ENROLLMENT.—The rule under section 1805 relating to election of medicare choice products shall apply to election of high deductible/medisave products offered under the demonstration project under this section, except as follows:

''(1) SPECIAL RULE FOR CERTAIN ANNUITANTS.—An individual is not eligible to elect a high deductible/medisave product under section 1805 if the individual is entitled to benefits under chapter 89 of title 5, United States Code, as an annuitant or spouse of an annuitant.

''(2) TRANSITION PERIOD RULE.—During the transition period (as defined in section 1805(e)(1)(B)), an individual who has elected a high deductible/medisave product may not change such election to a Medicare Choice product that is not a high deductible/medisave product unless the individual has had such election in effect for 12 months.

''(3) NO 90-DAY DISENROLLMENT OPTION.—Paragraph (4)(A) of section 1805(e) shall not apply to an individual who elects a high deductible/medisave product.

''(4) TIMING OF ELECTION.—An individual may elect a high deductible/medisave product only during an annual, coordinated election period described in section 1805(e)(3)(B) or during the month of October, 1996.

''(5) EFFECTIVENESS OF ELECTION.—An election of coverage for a high deductible/medisave product made in a year shall take effect as of the first day of the following year.

''(d) SPECIAL RULES RELATING TO BENEFITS.—

''(1) IN GENERAL.—Paragraphs (1) and (3) of section 1852(a) shall not apply to high deductible/medisave products.

''(2) PREMIUMS.—

''(A) APPLICATION OF ALTERNATIVE PREMIUM.—In applying section 1852(d)(2) in the case of a high deductible/medisave product, instead of the amount specified in subparagraph (B) there shall be substituted the monthly adjusted Medicare Choice capitation rate specified in section 1855(b)(1) for the individual and period involved.

''(B) CLASS ADJUSTED PREMIUMS.—Notwithstanding section 1852(d)(3), a Medicare Choice organization shall establish premiums for any high deductible/medisave product it offers in a payment area based on each of the risk adjustment categories established for purposes of determining the amount of the payment to Medicare Choice organizations under section 1855(b)(1) and using the identical demographic and other adjustments among such categories as are used for such purposes.

''(C) REQUIREMENT FOR ADDITIONAL BENEFITS NOT APPLICABLE.—Section 1852(e)(1)(A) shall not apply to a high deductible/medisave product.

''(e) ADDITIONAL DISCLOSURE.—In any disclosure made pursuant to section 1853(a)(1) for a high deductible/medisave product, the disclosure shall include a comparison of benefits under such a product with benefits under other Medicare Choice products.

''(f) SPECIAL RULES FOR INDIVIDUALS ELECTING HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—

''(1) IN GENERAL.—In the case of an individual who has elected a high deductible/medisave product, notwithstanding the provisions of section 1855—

''(A) the amount of the payment to the Medicare Choice organization offering the high deductible/medisave product shall not exceed the premium for the product, and

''(B) subject to paragraph (2), the difference between the amount of payment that would otherwise be made and the amount of payment to such organization shall be made directly into a Medicare Choice MSA established (and, if applicable, designated) by the individual under paragraph (2).

''(2) ESTABLISHMENT AND DESIGNATION OF MEDICARE CHOICE MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under a high deductible/medisave product, no payment shall be made under paragraph (1)(B) on behalf of an individual for a month unless the individual—

''(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a Medicare Choice MSA (as defined in section 137(b) of the Internal Revenue Code of 1986), and

''(B) if the individual has established more than one Medicare Choice MSA, has designated one of such accounts as the individual's Medicare Choice MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

''(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing a high deductible/medisave product effective beginning with a month in a year, the amount of the contribution to the Medicare Choice MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

''(g) SPECIAL CONTRACT RULES.—

''(1) ENROLLMENT REQUIREMENTS WAIVED.—Subsection (b) of section 1858 shall not apply with respect to a contract that relates only to one or more high deductible/medisave products.

''(2) EFFECTIVE DATE OF CONTRACTS.—In no case shall a contract under section 1858 which provides for coverage under a high deductible/medisave account be effective before January 1997 with respect to such coverage.''.

(b) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(c) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(d) ADVANCE DIRECTIVES.—Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended—

(1) in paragraph (1)—

(A) by inserting ''1853(g),'' after ''1833(s),'', and

(B) by inserting '', Medicare Choice organization,'' after ''provider of services'', and

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

''(4) Nothing in this subsection shall be construed to require the provision of information regarding assisted suicide, euthanasia, or mercy killing.''.

(e) CONFORMING AMENDMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended by inserting before the semicolon at the end the following: ''and in the case of hospitals to accept as payment in full for inpatient hospital services that are covered under this title and are furnished to any individual enrolled under part C with a Medicare Choice organization which does not have a contract establishing payment amounts for services furnished to members of the organization the amounts that would be made as a payment in full under this title if the individuals were not so enrolled''.

SEC. 8003. REPORTS.

(a) ALTERNATIVE PAYMENT APPROACHES.—By not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this title referred to as the ''Secretary'') shall submit to Congress a report on alternative provider payment approaches under the medicare program, including—

(1) combined hospital and physician payments per admission,

(2) partial capitation models for subsets of medicare benefits, and

(3) risk-sharing arrangements in which the Secretary defines the risk corridor and shares in gains and losses.

Such report shall include recommendations for implementing and testing such approaches and legislation that may be required to implement and test such approaches.

(b) COVERAGE OF RETIRED WORKERS.—

(1) IN GENERAL.—The Secretary shall work with employers and health benefit plans to develop standards and payment methodologies to allow retired workers to continue to participate in employer health plans instead of participating in the medicare program. Such standards shall also cover workers covered under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the development of such standards and payment methodologies. The report shall include recommendations relating to such legislation as may be necessary.

SEC. 8004. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) TRANSITION FROM CURRENT CONTRACTS.—

(1) LIMITATION ON NEW CONTRACTS.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall not enter into any risk-sharing or cost reimbursement contract under section 1876 of the Social Security Act with an eligible organization for any contract year beginning on or after the date standards for Medicare Choice organizations and products are first established under section 1856(a) of such Act with respect to Medicare Choice organizations that are insurers or health maintenance organizations unless such a contract had been in effect under section 1876 of such Act for the organization for the previous contract year.

(2) TERMINATION OF CURRENT CONTRACTS.—

(A) RISK-SHARING CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall not extend or continue any risk-sharing contract with an eligible organization under section 1876 of the Social Security Act (for which a contract was entered into consistent with paragraph (1)(A)) for any contract year beginning on or after 1 year after the date standards described in paragraph (1)(A) are established.

(B) COST REIMBURSEMENT CONTRACTS.—The Secretary shall not extend or continue any reasonable cost reimbursement contract with an eligible organization under section 1876 of the Social Security Act for any contract year beginning on or after January 1, 1998.

(b) CONFORMING PAYMENT RATES UNDER RISK-SHARING CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under risk-sharing contracts under section 1876(a) of the Social Security Act for months in a year (beginning with January 1996) shall be computed—

(1) with respect to individuals entitled to benefits under both parts A and B of title XVIII of such Act, by substituting payment rates under section 1855(a) of such Act for the payment rates otherwise established under section 1876(a) of such Act, and

(2) with respect to individuals only entitled to benefits under part B of such title, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under such title attributable to such part) for the payment rates otherwise established under section 1876(a) of such Act.

For purposes of carrying out this paragraph for payment for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1855(a) of such Act (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made not in accordance with such rates.

PART 2—SPECIAL RULES FOR MEDICARE CHOICE MEDICAL SAVINGS ACCOUNTS

SEC. 8011. MEDICARE CHOICE MSA'S.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

''SEC. 137. MEDICARE CHOICE MSA'S.

''(a) EXCLUSION.—Gross income shall not include any payment to the Medicare Choice

MSA of an individual by the Secretary of Health and Human Services under section 1859(f)(1)(B) of the Social Security Act.

''(b) MEDICARE CHOICE MSA.—For purposes of this section—

''(1) MEDICARE CHOICE MSA.—The term 'Medicare Choice MSA' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

''(A) Except in the case of a trustee-to-trustee transfer described in subsection (d)(4), no contribution will be accepted unless it is made by the Secretary of Health and Human Services under section 1859(f)(1)(B) of the Social Security Act.

''(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts.

''(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(E) The interest of an individual in the balance in his account is nonforfeitable.

''(F) Trustee-to-trustee transfers described in subsection (d)(4) may be made to and from the trust.

''(2) QUALIFIED MEDICAL EXPENSES.—

''(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder—

''(i) for medical care (as defined in section 213(d)) for the account holder, but only to the extent such amounts are not compensated for by insurance or otherwise, or

''(ii) for long-term care insurance for the account holder.

''(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Subparagraph (A)(i) shall not apply to any payment for insurance.

''(3) ACCOUNT HOLDER.—The term 'account holder' means the individual on whose behalf the Medicare Choice MSA is maintained.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (g) and (h) of section 408 shall apply for purposes of this section.

''(c) TAX TREATMENT OF ACCOUNTS.—

''(1) IN GENERAL.—A Medicare Choice MSA is exempt from taxation under this subtitle unless such MSA has ceased to be a Medicare Choice MSA by reason of paragraph (2). Notwithstanding the preceding sentence, any such MSA is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

''(2) ACCOUNT ASSETS TREATED AS DISTRIBUTED IN THE CASE OF PROHIBITED TRANSACTIONS OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to Medicare Choice MSA's, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

''(d) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—No amount shall be included in the gross income of the account holder by reason of a payment or distribution from a Medicare Choice MSA which is used exclusively to pay the qualified medical expenses of the account holder. Any amount paid or distributed from a Medicare Choice MSA which is not so used shall be included in the gross income of such holder.

''(2) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—

''(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a Medicare Choice MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

''(i) the amount of such payment or distribution, over

''(ii) the excess (if any) of—

''(I) the fair market value of the assets in the Medicare Choice MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

''(II) an amount equal to 60 percent of the deductible under the catastrophic health plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

''(i) becomes disabled within the meaning of section 72(m)(7), or

''(ii) dies.

''(C) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) all Medicare Choice MSA's of the account holder shall be treated as 1 account,

''(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

''(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

''(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Paragraphs (1) and (2) shall not apply to any payment or distribution from a Medicare Choice MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

''(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Paragraphs (1) and (2) shall not apply to any trustee-to-trustee transfer from a Medicare Choice MSA of an account holder to another Medicare Choice MSA of such account holder.

''(5) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a Medicare Choice MSA for qualified medical expenses shall not be treated as an expense paid for medical care.

''(e) TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—

''(1) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—

''(A) IN GENERAL.—In the case of an account holder's interest in a Medicare Choice MSA which is payable to (or for the benefit of) such holder's spouse upon the death of such holder, such Medicare Choice MSA shall be treated as a Medicare Choice MSA of such spouse as of the date of such death.

''(B) SPECIAL RULES IF SPOUSE NOT MEDICARE ELIGIBLE.—If, as of the date of such death, such spouse is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

''(i) the Secretary of Health and Human Services may not make any payments to such Medicare Choice MSA, other than payments attributable to periods before such date,

''(ii) in applying subsection (b)(2) with respect to such Medicare Choice MSA, references to the account holder shall be treated as including references to any dependent (as defined in section 152) of such spouse and any subsequent spouse of such spouse, and

''(iii) in lieu of applying subsection (d)(2), the rules of section 220(f)(2) shall apply.

''(2) TREATMENT IF DESIGNATED BENEFICIARY IS NOT SPOUSE.—In the case of an account holder's interest in a Medicare Choice MSA which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

''(A) such account shall cease to be a Medicare Choice MSA as of the date of death, and

''(B) an amount equal to the fair market value of the assets in such account on such date shall be includible—

''(i) if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or

''(ii) if such person is the estate of such holder, in such holder's gross income for last taxable year of such holder.

''(f) REPORTS.—

''(1) IN GENERAL.—The trustee of a Medicare Choice MSA shall make such reports regarding such account to the Secretary and to the account holder with respect to—

''(A) the fair market value of the assets in such Medicare Choice MSA as of the close of each calendar year, and

''(B) contributions, distributions, and other matters,

as the Secretary may require by regulations.

''(2) TIME AND MANNER OF REPORTS.—The reports required by this subsection—

''(A) shall be filed at such time and in such manner as the Secretary prescribes in such regulations, and

''(B) shall be furnished to the account holder—

''(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

''(ii) in such manner as the Secretary prescribes in such regulations.''

(b) EXCLUSION OF MEDICARE CHOICE MSA'S FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new section:

''SEC. 2057. MEDICARE CHOICE MSA'S.

''For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any Medicare Choice MSA (as defined in section 137(b)) included in the gross estate.''

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 of such Code (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

''(5) SPECIAL RULE FOR MEDICARE CHOICE MSA'S.—An individual for whose benefit a Medicare Choice MSA (within the meaning of section 137(b)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a Medicare Choice MSA by reason of the application of section 137(c)(2) to such account.''

(2) Paragraph (1) of section 4975(e) of such Code is amended to read as follows:

''(1) PLAN.—For purposes of this section, the term 'plan' means—

''(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

''(B) an individual retirement account described in section 408(a),

''(C) an individual retirement annuity described in section 408(b),

''(D) a medical savings account described in section 220(d),

''(E) a Medicare Choice MSA described in section 137(b), or

''(F) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph.''

(d) FAILURE TO PROVIDE REPORTS ON MEDICARE CHOICE MSA'S.—

(1) Subsection (a) of section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

''(a) REPORTS.—

''(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

''(2) PROVISIONS.—The provisions referred to in this paragraph are—

''(A) subsections (i) and (l) of section 408 (relating to individual retirement plans),

''(B) section 220(h) (relating to medical savings accounts), and

''(C) section 137(f) (relating to Medicare Choice MSA's).''

(2) The section heading for section 6693 of such Code is amended to read as follows:

''SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RETIREMENT PLANS AND CERTAIN OTHER TAX-FAVORED ACCOUNTS; PENALTIES RELATING TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.''

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

''Sec. 137. Medicare Choice MSA's.

''Sec. 138. Cross references to other Acts.''

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6693 and inserting the following new item:

''Sec. 6693. Failure to file reports on individual retirement plans and certain other tax-favored accounts; penalties relating to designated nondeductible contributions.''

(3) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

''Sec. 2057. Medicare Choice MSA's.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 8012. CERTAIN REBATES EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Section 105 of the Internal Revenue Code of 1986 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

''(j) CERTAIN REBATES UNDER SOCIAL SECURITY ACT.—Gross income does not include any rebate received under section 1852(e)(1)(A) of the Social Security Act during the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

SEC. 8021. APPLICATION OF ANTITRUST RULE OF REASON TO PROVIDER SERVICE NETWORKS.

(a) RULE OF REASON STANDARD.—In any action under the antitrust laws, or under any State law similar to the antitrust laws—

(1) the conduct of a provider service network in negotiating, making, or performing a contract (including the establishment and modification of a fee schedule and the development of a panel of physicians), to the extent such contract is for the purpose of providing health care services to individuals under the terms of a Medicare Choice PSO product, and

(2) the conduct of any member of such network for the purpose of providing such health care services under such contract to such extent,

shall not be deemed illegal per se. Such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including the effects on competition in properly defined markets.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(3) HEALTH CARE SERVICE.—The term ''health care service'' means any service for which payment may be made under a Medicare Choice PSO product including services related to the delivery or administration of such service.

(4) MEDICARE CHOICE PROGRAM.—The term ''Medicare Choice program'' means the program under part C of title XVIII of the Social Security Act.

(5) MEDICARE CHOICE PSO PRODUCT.—The term ''Medicare Choice PSO product'' means a Medicare Choice product offered by a provider-sponsored organization under part C of title XVIII of the Social Security Act.

(6) PROVIDER SERVICE NETWORK.—The term ''provider service network'' means an organization that—

(A) is organized by, operated by, and composed of members who are health care providers and for purposes that include providing health care services,

(B) is funded in part by capital contributions made by the members of such organization,

(C) with respect to each contract made by such organization for the purpose of providing a type of health care service to individuals under the terms of a Medicare Choice PSO product—

(i) requires all members of such organization who engage in providing such type of health care service to agree to provide health care services of such type under such contract,

(ii) receives the compensation paid for the health care services of such type provided under such contract by such members, and

(iii) provides for the distribution of such compensation,

(D) has established, consistent with the requirements of the Medicare Choice program for provider-sponsored organizations, a program to review, pursuant to written guidelines, the quality, efficiency, and appropriateness of treatment methods and setting of services for all health care providers and all patients participating in such product, along with internal procedures to correct identified deficiencies relating to such methods and such services,

(E) has established, consistent with the requirements of the Medicare Choice program for provider-sponsored organizations, a program to monitor and control utilization of health care services provided under such product, for the purpose of improving efficient, appropriate care and eliminating the provision of unnecessary health care services,

(F) has established a management program to coordinate the delivery of health care services for all health care providers and all patients participating in such product, for the purpose of achieving efficiencies and enhancing the quality of health care services provided, and

(G) has established, consistent with the requirements of the Medicare Choice program for provider-sponsored organizations, a grievance and appeal process for such organization designed to review and promptly resolve beneficiary or patient grievances and complaints.

Such term may include a provider-sponsored organization.

(7) PROVIDER-SPONSORED ORGANIZATION.—The term ''provider-sponsored organization'' means a Medicare Choice organization under the Medicare Choice program that is a provider-sponsored organization (as defined in section 1854(a)(1) of the Social Security Act).

(8) STATE.—The term ''State'' has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(c) ISSUANCE OF GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Attorney General and the Federal Trade Commission shall issue jointly guidelines specifying the enforcement policies and analytical principles that will be applied by the Department of Justice and the Commission with respect to the operation of subsection (a).

PART 4—COMMISSIONS

SEC. 8031. MEDICARE PAYMENT REVIEW COMMISSION.

(a) IN GENERAL.—Title XVIII, as amended by section 8001(a), is amended by inserting after section 1805 the following new section:

''MEDICARE PAYMENT REVIEW COMMISSION

''SEC. 1806. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Review Commission (in this section referred to as the 'Commission').

''(b) DUTIES.—

''(1) GENERAL DUTIES AND REPORTS.—The Commission shall review, and make recommendations to Congress concerning, payment policies under this title. By not later than June 1 of each year, the Commission shall submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program. The Commission may submit to Congress from time to time such other reports as the Commission deems appropriate. The Secretary shall respond to recommendations of the Commission in notices of rulemaking proceedings under this title.

''(2) SPECIFIC DUTIES RELATING TO MEDICARE CHOICE PROGRAM.—Specifically, the Commission shall review, with respect to the Medicare Choice program under part C—

''(A) the appropriateness of the methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas,

''(B) the appropriateness of the mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries,

''(C) the implications of risk selection both among Medicare Choice organizations and

between the Medicare Choice option and the non-Medicare Choice option,

''(D) in relation to payment under part C, the development and implementation of mechanisms to assure the quality of care for those enrolled with Medicare Choice organizations,

''(E) the impact of the Medicare Choice program on access to care for medicare beneficiaries, and

''(F) other major issues in implementation and further development of the Medicare Choice program.

''(3) SPECIFIC DUTIES RELATING TO THE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

''(A) the factors affecting expenditures for services in different sectors, including the process for updating hospital, physician, and other fees,

''(B) payment methodologies; and

''(C) the impact of payment policies on access and quality of care for medicare beneficiaries.

''(4) SPECIFIC DUTIES RELATING TO INTERACTION OF PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically the Commission shall review the effect of payment policies under this title on the delivery of health care services under this title and assess the implications of changes in the health services market on the medicare program.

''(c) MEMBERSHIP.—

''(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

''(2) QUALIFICATIONS.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, physicians, and other providers of services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives, including physicians and other health professionals, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

''(3) CONSIDERATIONS IN INITIAL APPOINTMENT.—To the extent possible, in first appointing members to the Commission the Comptroller General shall consider appointing individuals who (as of the date of the enactment of this section) were serving on the Prospective Payment Assessment Commission or the Physician Payment Review Commission.

''(4) TERMS.—

''(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(5) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

''(6) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

''(7) MEETINGS.—The Commission shall meet at the call of the Chairman.

''(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

''(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

''(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

''(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

''(4) make advance, progress, and other payments which relate to the work of the Commission;

''(5) provide transportation and subsistence for persons serving without compensation; and

''(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

''(e) POWERS.—

''(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

''(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall collect and assess information.

''(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

''(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

''(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

''(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon request.

''(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the General Accounting Office.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

''(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.''.

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking ''(A) The Commission'' and all that follows through ''(B)''.

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking ''Prospective Payment Assessment Commission'' each place it appears in subsection (a)(1)(D) and subsection (i) and inserting ''Medicare Payment Review Commission''.

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) CONFORMING AMENDMENTS.—

(i) Section 1834(b)(2) (42 U.S.C. 1395m(b)(2)) is amended by striking ''Physician Payment Review Commission'' and inserting ''Medicare Payment Review Commission''.

(ii) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking ''Physician Payment Review Commission'' each place it appears in paragraphs (2)(C), (9)(D), and (14)(C)(i) and inserting ''Medicare Payment Review Commission''.

(iii) Section 1848 (42 U.S.C. 1395w@4) is amended by striking ''Physician Payment Review Commission'' and inserting ''Medicare Payment Review Commission'' each place it appears in paragraph (2)(A)(ii), (2)(B)(iii), and (5) of subsection (c), subsection (d)(2)(F), paragraphs (1)(B), (3), and (4)(A) of subsection (f), and paragraphs (6)(C) and (7)(C) of subsection (g).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Review Commission (in this subsection referred to as ''MPRC'') by not later than March 31, 1996.

(2) TRANSITION.—Effective on a date (not later than 30 days after the date a majority of members of the MPRC have first been appointed, the Prospective Payment Assessment Commission (in this subsection referred to as ''ProPAC'') and the Physician Payment Review Commission (in this subsection referred to as ''PPRC''), and amendments made by subsection (b), are terminated. The Comptroller General, to the maximum extent feasible, shall provide for the transfer to the MPRC of assets and staff of ProPAC and PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or PPRC for any period shall be available to the MPRC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MPRC shall be responsible for the preparation and submission of reports required by law to be submitted (and which

have not been submitted by the date of establishment of the MPRC) by the ProPAC and PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MPRC, to refer to the MPRC.

SEC. 8032. COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on the Effect of the Baby Boom Generation on the Medicare Program (in this section referred to as the ''Commission'').

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(B) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program, including the potential use of innovative financing methods.

(B) The most efficient and effective manner of administering the program, including the appropriateness of continuing the enforcement of medicare budget targets under section 8701 for fiscal years after fiscal year 2002 and the appropriate long-term growth rates for contributions electing coverage under Medicare Choice under part C of title XVIII of such Act.

(C) Methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals.

(D) Modifying age-based eligibility to correspond to changes in age-based eligibility under the OASDI program.

(E) Trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members appointed as follows:

(A) The President shall appoint 3 members.

(B) The Majority Leader of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members, of whom not more than 4 may be of the same political party.

(C) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members, of whom not more than 4 may be of the same political party.

(2) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(5) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(6) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than May 1, 1997, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(g) TERMINATION.—The Commission shall terminate 60 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

PART 5—PREEMPTION OF STATE ANTI-MANAGED CARE LAWS

SEC. 8041. PREEMPTION OF STATE LAW RESTRICTIONS ON MANAGED CARE ARRANGEMENTS.

(a) LIMITATION ON RESTRICTIONS ON NETWORK PLANS.—Effective as of January 1, 1997—

(1) a State may not prohibit or limit a carrier or group health plan providing health coverage from including incentives for enrollees to use the services of participating providers;

(2) a State may not prohibit or limit such a carrier or plan from limiting coverage of services to those provided by a participating provider, except as provided in section 1013;

(3) a State may not prohibit or limit the negotiation of rates and forms of payments for providers by such a carrier or plan with respect to health coverage;

(4) a State may not prohibit or limit such a carrier or plan from limiting the number of participating providers;

(5) a State may not prohibit or limit such a carrier or plan from requiring that services be provided (or authorized) by a practitioner selected by the enrollee from a list of available participating providers or, except for services of a physician who specializes in obstetrics and gynecology, from requiring enrollees to obtain referral in order to have coverage for treatment by a specialist or health institution; and

(6) a State may not prohibit or limit the corporate practice of medicine.

(b) DEFINITIONS.—In this section:

(1) MANAGED CARE COVERAGE.—The term ''managed care coverage'' means health coverage to the extent the coverage is provided through a managed care arrangement (as defined in paragraph (3)) that meets the applicable requirements of such section.

(2) PARTICIPATING PROVIDER.—The term ''participating provider'' means an entity or individual which provides, sells, or leases health care services as part of a provider network (as defined in paragraph (4)).

(3) MANAGED CARE ARRANGEMENT.—The term ''managed care arrangement'' means, with respect to a group health plan or under health insurance coverage, an arrangement under such plan or coverage under which providers agree to provide items and services covered under the arrangement to individuals covered under the plan or who have such coverage.

(4) PROVIDER NETWORK.—The term ''provider network'' means, with respect to a

group health plan or health insurance coverage, providers who have entered into an agreement described in paragraph (3).

SEC. 8042. PREEMPTION OF STATE LAWS RESTRICTING UTILIZATION REVIEW PROGRAMS.

(a) IN GENERAL.—Effective January 1, 1997, no State law or regulation shall prohibit or regulate activities under a utilization review program (as defined in subsection (b)).

(b) UTILIZATION REVIEW PROGRAM DEFINED.—In this section, the term ''utilization review program'' means a system of reviewing the medical necessity and appropriateness of patient services (which may include inpatient and outpatient services) using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

(c) EXEMPTION OF LAWS PREVENTING DENIAL OF LIFESAVING MEDICAL TREATMENT PENDING TRANSFER TO ANOTHER HEALTH CARE PROVIDER.—Nothing in this subtitle shall be construed to invalidate any State law that has the effect of preventing involuntary denial of life-preserving medical treatment when such denial would cause the involuntary death of the patient pending transfer of the patient to a health care provider willing to provide such treatment.

Subtitle B—Provisions Relating to Regulatory Relief

PART 1—PROVISIONS RELATING TO PHYSICIAN FINANCIAL RELATIONSHIPS

SEC. 8101. REPEAL OF PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking ''is—'' and all that follows through ''equity,'' and inserting the following: ''is (except as provided in subsection (c)) an ownership or investment interest in the entity through equity,''.

(b) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended as follows:

(1) In subsection (b)—

(A) in the heading, by striking ''TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROVISIONS'' and inserting ''WHERE FINANCIAL RELATIONSHIP EXISTS''; and

(B) by redesignating paragraph (4) as paragraph (7).

(2) In subsection (c)—

(A) by amending the heading to read as follows: ''EXCEPTION FOR OWNERSHIP OR INVESTMENT INTEREST IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS''; and

(B) in the matter preceding paragraph (1), by striking ''subsection (a)(2)(A)'' and inserting ''subsection (a)(2)''.

(3) In subsection (d)—

(A) by striking the matter preceding paragraph (1);

(B) in paragraph (3), by striking ''paragraph (1)'' and inserting ''paragraph (4)''; and

(C) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), and by transferring and inserting such paragraphs after paragraph (3) of subsection (b).

(4) By striking subsection (e).

(5) In subsection (f)(2), as amended by section 152(a) of the Social Security Act Amendments of 1994—

(A) in the matter preceding paragraph (1), by striking ''ownership, investment, and compensation'' and inserting ''ownership and investment'';

(B) in paragraph (2), by striking ''subsection (a)(2)(A)'' and all that follows through ''subsection (a)(2)(B)),'' and inserting ''subsection (a)(2),''; and

(C) in paragraph (2), by striking ''or who have such a compensation relationship with the entity''.

(6) In subsection (h)—

(A) by striking paragraphs (1), (2), and (3);

(B) in paragraph (4)(A), by striking clauses (iv) and (vi);

(C) in paragraph (4)(B), by striking ''RULES.—'' and all that follows through ''(ii) FACULTY'' and inserting ''RULES FOR FACULTY; and

(D) by adding at the end of paragraph (4) the following new subparagraph:

''(C) MEMBER OF A GROUP.—A physician is a 'member' of a group if the physician is an owner or a bona fide employee, or both, of the group.''.

SEC. 8102. REVISION OF DESIGNATED HEALTH SERVICES SUBJECT TO PROHIBITION.

(a) IN GENERAL.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraphs (B) through (K) and inserting the following:

''(B) Items and services furnished by a community pharmacy (as defined in paragraph (1)).

''(C) Magnetic resonance imaging and computerized tomography services.

''(D) Outpatient physical therapy services.''.

(b) COMMUNITY PHARMACY DEFINED.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 8101(b)(6), is amended by inserting before paragraph (4) the following new paragraph:

''(1) COMMUNITY PHARMACY.—The term 'community pharmacy' means any entity licensed or certified to dispense prescription drugs by the State in which the entity is located (including an entity which dispenses such drugs by mail order).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended in the matter preceding subparagraph (A) by striking ''services'' and all that follows through ''supplies)—'' and inserting ''services—''.

(2) Section 1877(h)(5)(C) (42 U.S.C. 1395nn(h)(5)(C)) is amended—

(A) by striking '', a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy,'' and inserting ''and a request by a radiologist for magnetic resonance imaging or for computerized tomography'', and

(B) by striking ''radiologist, or radiation oncologist'' and inserting ''or radiologist''.

SEC. 8103. DELAY IN IMPLEMENTATION UNTIL PROMULGATION OF REGULATIONS.

(a) IN GENERAL.—Section 13562(b) of OBRA–1993 (42 U.S.C. 1395nn note) is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

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

''(3) PROMULGATION OF REGULATIONS.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall not apply to any referrals made before the effective date of final regulations promulgated by the Secretary of Health and Human Services to carry out such amendments.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA–1993.

SEC. 8104. EXCEPTIONS TO PROHIBITION.

(a) REVISIONS TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—

(1) REPEAL OF SITE-OF-SERVICE REQUIREMENT.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by amending subparagraph (A) of subsection (b)(2) to read as follows:

''(A) that are furnished personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are under the general supervision of the physician or of another physician in the group practice, and'', and

(B) by adding at the end of subsection (h) the following new paragraph:

''(7) GENERAL SUPERVISION.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable under other provisions of law, regardless of whether or not the physician is physically present when the individual furnishes an item or service.''.

(2) CLARIFICATION OF TREATMENT OF PHYSICIAN OWNERS OF GROUP PRACTICE.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by striking ''physician or such group practice'' and inserting ''physician, such group practice, or the physician owners of such group practice''.

(3) CONFORMING AMENDMENT.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by amending the heading to read as follows: ''ANCILLARY SERVICES FURNISHED PERSONALLY OR THROUGH GROUP PRACTICE.—''.

(b) CLARIFICATION OF EXCEPTION FOR SERVICES FURNISHED IN A RURAL AREA.—Paragraph (5) of section 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section 8101(b)(3)(C), is amended by striking ''substantially all'' and inserting ''not less than 75 percent''.

(c) REVISION OF EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) (42 U.S.C. 1395nn(b)(3)) is amended—

(1) in the heading by inserting ''MANAGED CARE ARRANGEMENTS'' after ''PREPAID PLANS'';

(2) in the matter preceding subparagraph (A), by striking ''organization—'' and inserting ''organization, directly or through contractual arrangements with other entities, to individuals enrolled with the organization—'';

(3) in subparagraph (A), by inserting ''or part C'' after ''section 1876'';

(4) by striking ''or'' at the end of subparagraph (C);

(5) by striking the period at the end of subparagraph (D) and inserting a comma; and

(6) by adding at the end the following new subparagraphs:

''(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)) or a State MediGrant plan under title XXI; or

''(F) which—

''(i) provides health care items or services directly or through one or more subsidiary entities or arranges for the provision of health care items or services substantially through the services of health care providers under contract with the organization, and

''(ii)(I) assumes financial risk for the provision of health services through mechanisms (such as capitation, risk pools, withholds, and per diem payments) or offers its network of contract health providers to an entity (including self-insured employers and indemnity plans) which assumes financial risk for the provision of such health services, or

''(II) has in effect a written agreement with the provider of services under which the provider is at significant financial risk (whether through a withhold, capitation, incentive pool, per diem payments, or similar risk sharing arrangement) for the cost or utilization of services that the provider is obligated to provide.''.

(d) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(B) by inserting after paragraph (3) the following new paragraph:

''(4) SHARED FACILITY SERVICES.—In the case of a designated health service consisting of a shared facility service of a shared facility—

''(A) that is furnished—

''(i) personally by the referring physician who is a shared facility physician or personally by an individual directly employed or under the general supervision of such a physician,

''(ii) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

''(iii) to a patient of a shared facility physician; and

''(B) that is billed by the referring physician or a group practice of which the physician is a member.''.

(2) DEFINITIONS.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 8101(b)(6) and section 8102(b), is amended by inserting after paragraph (1) the following new paragraph:

''(2) SHARED FACILITY RELATED DEFINITIONS.—

''(A) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

''(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

''(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician (or a group practice of which the physician is a member) who has a financial relationship under a shared facility arrangement with the facility.

''(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

''(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

''(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

''(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.''.

(e) NEW EXCEPTION FOR SERVICES FURNISHED IN COMMUNITIES WITH NO ALTERNATIVE PROVIDERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C) and subsection (d)(1), is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9); and

(2) by inserting after paragraph (4) the following new paragraph:

''(5) NO ALTERNATIVE PROVIDERS IN AREA.—In the case of a designated health service furnished in any area with respect to which the Secretary determines that individuals residing in the area do not have reasonable access to such a designated health service for which subsection (a)(1) does not apply.''.

(f) NEW EXCEPTION FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), and subsection (e)(1), is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10); and

(2) by inserting after paragraph (5) the following new paragraph:

''(6) SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—In the case of a designated health service furnished in an ambulatory surgical center described in section 1832(a)(2)(F)(i).''.

(g) NEW EXCEPTION FOR SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), subsection (e)(1), and subsection (f), is amended—

(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11); and

(2) by inserting after paragraph (6) the following new paragraph:

''(7) SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—In the case of a designated health service furnished in a renal dialysis facility under section 1881.''.

(h) NEW EXCEPTION FOR SERVICES FURNISHED IN A HOSPICE.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), and subsection (g), is amended—

(1) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12); and

(2) by inserting after paragraph (7) the following new paragraph:

''(8) SERVICES FURNISHED BY A HOSPICE PROGRAM.—In the case of a designated health service furnished by a hospice program under section 1861(dd)(2).''.

(i) NEW EXCEPTION FOR SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), subsection (g), and subsection (h), is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13); and

(2) by inserting after paragraph (8) the following new paragraph:

''(9) SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—In the case of a designated health service furnished in a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)).''.

(i) DEFINITION OF REFERRAL.—Section 1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amended—

(1) by striking ''an item or service'' and inserting ''a designated health service'', and

(2) by striking ''the item or service'' and inserting ''the designated health service''.

SEC. 8105. REPEAL OF REPORTING REQUIREMENTS.

Section 1877 (42 U.S.C. 1395nn) is amended—

(1) by striking subsection (f); and

(2) by striking subsection (g)(5).

SEC. 8106. PREEMPTION OF STATE LAW.

Section 1877 (42 U.S.C. 1395nn) is amended by adding at the end the following new subsection:

''(i) PREEMPTION OF STATE LAW.—This section preempts State law to the extent State law is inconsistent with this section.''.

SEC. 8107. EFFECTIVE DATE.

Except as provided in section 8103(b), the amendments made by this part shall apply to referrals made on or after August 14, 1995, regardless of whether or not regulations are promulgated to carry out such amendments.

PART 2—ANTITRUST REFORM

SEC. 8111. PUBLICATION OF ANTITRUST GUIDELINES ON ACTIVITIES OF HEALTH PLANS.

(a) IN GENERAL.—The Attorney General shall provide for the development and publication of explicit guidelines on the application of antitrust laws to the activities of health plans. The guidelines shall be designed to facilitate development and operation of plans, consistent with the antitrust laws.

(b) REVIEW PROCESS.—The Attorney General shall establish a review process under which the administrator or sponsor of a health plan (or organization that proposes to administer or sponsor a health plan) may submit a request to the Attorney General to obtain a prompt opinion (but in no event later than 90 days after the Attorney General receives the request) from the Department of Justice on the plan's conformity with the Federal antitrust laws.

SEC. 8112. ISSUANCE OF HEALTH CARE CERTIFICATES OF PUBLIC ADVANTAGE.

(a) ISSUANCE AND EFFECT OF CERTIFICATE.—The Attorney General, after consultation with the Secretary, shall issue in accordance with this section a certificate of public advantage to each eligible health care collaborative activity that complies with the requirements in effect under this section on or after the expiration of the 1-year period that begins on the date of the enactment of this Act (without regard to whether or not the Attorney General has promulgated regulations to carry out this section by such date). Such activity, and the parties to such activity, shall not be liable under any of the antitrust laws for conduct described in such certificate and engaged in by such activity if such conduct occurs while such certificate is in effect.

(b) REQUIREMENTS APPLICABLE TO ISSUANCE OF CERTIFICATES.—

(1) STANDARDS TO BE MET.—The Attorney General shall issue a certificate to an eligible health care collaborative activity if the Attorney General finds that—

(A) the benefits that are likely to result from carrying out the activity outweigh the reduction in competition (if any) that is likely to result from the activity, and

(B) such reduction in competition is necessary to obtain such benefits.

(2) FACTORS TO BE CONSIDERED.—

(A) WEIGHING OF BENEFITS AGAINST REDUCTION IN COMPETITION.—For purposes of making the finding described in paragraph (1)(A), the Attorney General shall consider whether the activity is likely—

(i) to maintain or to increase the quality of health care by providing new services not currently offered in the relevant market,

(ii) to increase access to health care,

(iii) to achieve cost efficiencies that will be passed on to health care consumers, such as economies of scale, reduced transaction costs, and reduced administrative costs, that cannot be achieved by the provision of available services and facilities in the relevant market,

(iv) to preserve the operation of health care facilities located in underserved geographical areas,

(v) to improve utilization of health care resources, and

(vi) to reduce inefficient health care resource duplication.

(B) NECESSITY OF REDUCTION IN COMPETITION.—For purposes of making the finding described in paragraph (1)(B), the Attorney General shall consider—

(i) the ability of the providers of health care services that are (or likely to be) affected by the health care collaborative activity and the entities responsible for making payments to such providers to negotiate societally optimal payment and service arrangements,

(ii) the effects of the health care collaborative activity on premiums and other charges imposed by the entities described in clause (i), and

(iii) the availability of equally efficient, less restrictive alternatives to achieve the

benefits that are intended to be achieved by carrying out the activity.

(c) ESTABLISHMENT OF CRITERIA AND PROCEDURES.—Subject to subsections (d) and (e), not later than 1 year after the date of the enactment of this Act, the Attorney General and the Secretary shall establish jointly by rule the criteria and procedures applicable to the issuance of certificates under subsection (a). The rules shall specify the form and content of the application to be submitted to the Attorney General to request a certificate, the information required to be submitted in support of such application, the procedures applicable to denying and to revoking a certificate, and the procedures applicable to the administrative appeal (if such appeal is authorized by rule) of the denial and the revocation of a certificate. Such information may include the terms of the health care collaborative activity (in the case of an activity in existence as of the time of the application) and implementation plan for the collaborative activity.

(d) ELIGIBLE HEALTH CARE COLLABORATIVE ACTIVITY.—To be an eligible health care collaborative activity for purposes of this section, a health care collaborative activity shall submit to the Attorney General an application that complies with the rules in effect under subsection (c) and that includes—

(1) an agreement by the parties to the activity that the activity will not foreclose competition by entering into contracts that prevent health care providers from providing health care in competition with the activity,

(2) an agreement that the activity will submit to the Attorney General annually a report that describes the operations of the activity and information regarding the impact of the activity on health care and on competition in health care, and

(3) an agreement that the parties to the activity will notify the Attorney General and the Secretary of the termination of the activity not later than 30 days after such termination occurs.

(e) REVIEW OF APPLICATIONS FOR CERTIFICATES.—Not later than 90 days after an eligible health care collaborative activity submits to the Attorney General an application that complies with the rules in effect under subsection (c) and with subsection (d), the Attorney General shall issue or deny the issuance of such certificate. If, before the expiration of such 90-day period, the Attorney General may extend the time for issuance for good cause.

(f) REVOCATION OF CERTIFICATE.—Whenever the Attorney General finds that a health care collaborative activity with respect to which a certificate is in effect does not meet the standards specified in subsection (b), the Attorney General shall revoke such certificate.

(g) WRITTEN REASONS; JUDICIAL REVIEW.—

(1) DENIAL AND REVOCATION OF CERTIFICATES.—If the Attorney General denies an application for a certificate or revokes a certificate, the Attorney General shall include in the notice of denial or revocation a statement of the reasons relied upon for the denial or revocation of such certificate.

(2) JUDICIAL REVIEW.—

(A) AFTER ADMINISTRATIVE PROCEEDING.—(i) If the Attorney General denies an application submitted or revokes a certificate issued under this section after an opportunity for hearing on the record, then any party to the health care collaborative activity involved may commence a civil action, not later than 60 days after receiving notice of the denial or revocation, in an appropriate district court of the United States for review of the record of such denial or revocation.

(ii) As part of the Attorney General's answer, the Attorney General shall file in such court a certified copy of the record on which such denial or revocation is based. The findings of fact of the Attorney General may be set aside only if found to be unsupported by substantial evidence in such record taken as a whole.

(B) DENIAL OR REVOCATION WITHOUT ADMINISTRATIVE PROCEEDING.—If the Attorney General denies an application submitted or revokes a certificate issued under this section without an opportunity for hearing on the record, then any party to the health care collaborative activity involved may commence a civil action, not later than 60 days after receiving notice of the denial or revocation, in an appropriate district court of the United States for de novo review of such denial or revocation.

(h) EXEMPTION.—A person shall not be liable under any of the antitrust laws for conduct necessary—

(1) to prepare, agree to prepare, or attempt to agree to prepare an application to request a certificate under this section, or

(2) to attempt to enter into any health care collaborative activity with respect to which such a certificate is in effect.

(i) DEFINITIONS.—In this section:

(1) The term ''certificate'' means a certificate of public advantage authorized to be issued under subsection (a).

(2) The term ''health care collaborative activity'' means an agreement (whether existing or proposed) between 2 or more providers of health care services that is entered into solely for the purpose of sharing in the provision and coordination of health care services and that involves substantial integration and financial risk-sharing between the parties, but does not include the exchanging of information, the entering into of any agreement, or the engagement in any other conduct that is not reasonably required to carry out such agreement.

(3) The term ''health care services'' includes services related to the delivery or administration of health care services.

(4) The term ''liable'' means liable for any civil or criminal violation of the antitrust laws.

(5) The term ''provider of health care services'' means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

SEC. 8113. STUDY OF IMPACT ON COMPETITION.

The Attorney General, in consultation with the Chairman of the Federal Trade Commission, annually shall submit to the Congress a report as part of the annual budget oversight proceedings concerning the Antitrust Division of the Department of Justice. The report shall enable the Congress to determine how enforcement of antitrust laws is affecting the formation of efficient, cost-saving joint ventures and if the certificate of public advantage procedure set forth in section 8112 has resulted in undesirable reduction in competition in the health care marketplace. The report shall include an evaluation of the factors set forth in paragraphs (2)(A) and (2)(B) of section 8112(b).

SEC. 8114. ANTITRUST EXEMPTION.

The antitrust laws shall not apply with respect to—

(1) the merger of, or the attempt to merge, 2 or more hospitals,

(2) a contract entered into solely by 2 or more hospitals to allocate hospital services, or

(3) the attempt by only 2 or more hospitals to enter into a contract to allocate hospital services,

if each of such hospitals satisfies all of the requirements of section 8115 at the time such hospitals engage in the conduct described in paragraph (1), (2), or (3), as the case may be.

SEC. 8115. REQUIREMENTS.

The requirements referred to in section 8114 are as follows:

(1) The hospital is located outside of a city, or in a city that has less than 150,000 inhabitants, as determined in accordance with the most recent data available from the Bureau of the Census.

(2) In the most recently concluded calendar year, the hospital received more than 40 percent of its gross revenue from payments made under Federal programs.

(3) There is in effect with respect to the hospital a certificate issued by the Health Care Financing Administration specifying that such Administration has determined that Federal expenditures would be reduced, consumer costs would not increase, and access to health care services would not be reduced, if the hospital and the other hospitals that requested such certificate merge, or allocate the hospital services specified in such request, as the case may be.

SEC. 8116. DEFINITION.

For purposes of this subtitle, the term ''antitrust laws'' has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies with respect to unfair methods of competition.

PART 3—MALPRACTICE REFORM

Subpart A—Uniform Standards for Malpractice Claims

SEC. 8121. APPLICABILITY.

Except as provided in section 8131, this subpart shall apply to any medical malpractice liability action brought in a Federal or State court, and to any medical malpractice claim subject to an alternative dispute resolution system, that is initiated on or after January 1, 1996.

SEC. 8122. REQUIREMENT FOR INITIAL RESOLUTION OF ACTION THROUGH ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—

(1) STATE CASES.—A medical malpractice liability action may not be brought in any State court during a calendar year unless the medical malpractice liability claim that is the subject of the action has been initially resolved under an alternative dispute resolution system certified for the year by the Secretary under section 8132(a), or, in the case of a State in which such a system is not in effect for the year, under the alternative Federal system established under section 8132(b).

(2) FEDERAL DIVERSITY ACTIONS.—A medical malpractice liability action may not be brought in any Federal court under section 1332 of title 28, United States Code, during a calendar year unless the medical malpractice liability claim that is the subject of the action has been initially resolved under the alternative dispute resolution system referred to in paragraph (1) that applied in the State whose law applies in such action.

(3) CLAIMS AGAINST UNITED STATES.—

(A) ESTABLISHMENT OF PROCESS FOR CLAIMS.—The Attorney General shall establish an alternative dispute resolution process for the resolution of tort claims consisting of medical malpractice liability claims brought against the United States under chapter 171 of title 28, United States Code. Under such process, the resolution of a claim shall occur after the completion of the administrative claim process applicable to the claim under section 2675 of such title.

(B) REQUIREMENT FOR INITIAL RESOLUTION UNDER PROCESS.—A medical malpractice liability action based on a medical malpractice liability claim described in subparagraph (A) may not be brought in any Federal

court unless the claim has been initially resolved under the alternative dispute resolution process established by the Attorney General under such subparagraph.

(b) INITIAL RESOLUTION OF CLAIMS UNDER ADR.—For purposes of subsection (a), an action is ''initially resolved'' under an alternative dispute resolution system if—

(1) the ADR reaches a decision on whether the defendant is liable to the plaintiff for damages; and

(2) if the ADR determines that the defendant is liable, the ADR reaches a decision on the amount of damages assessed against the defendant.

(c) PROCEDURES FOR FILING ACTIONS.—

(1) NOTICE OF INTENT TO CONTEST DECISION.—Not later than 60 days after a decision is issued with respect to a medical malpractice liability claim under an alternative dispute resolution system, each party affected by the decision shall submit a sealed statement to a court of competent jurisdiction indicating whether or not the party intends to contest the decision.

(2) DEADLINE FOR FILING ACTION.—A medical malpractice liability action may not be brought by a party unless—

(A) the party has filed the notice of intent required by paragraph (1); and

(B) the party files the action in a court of competent jurisdiction not later than 90 days after the decision resolving the medical malpractice liability claim that is the subject of the action is issued under the applicable alternative dispute resolution system.

(3) COURT OF COMPETENT JURISDICTION.—For purposes of this subsection, the term ''court of competent jurisdiction'' means—

(A) with respect to actions filed in a State court, the appropriate State trial court; and

(B) with respect to actions filed in a Federal court, the appropriate United States district court.

(d) LEGAL EFFECT OF UNCONTESTED ADR DECISION.—The decision reached under an alternative dispute resolution system shall, for purposes of enforcement by a court of competent jurisdiction, have the same status in the court as the verdict of a medical malpractice liability action adjudicated in a State or Federal trial court. The previous sentence shall not apply to a decision that is contested by a party affected by the decision pursuant to subsection (c)(1).

SEC. 8123. OPTIONAL APPLICATION OF PRACTICE GUIDELINES.

(a) DEVELOPMENT AND CERTIFICATION OF GUIDELINES.—Each State may develop, for certification by the Secretary, a set of specialty clinical practice guidelines, based on recommended guidelines from national specialty societies, to be updated annually. In the absence of recommended guidelines from such societies, each State may develop such guidelines based on such criteria as the State considers appropriate (including based on recommended guidelines developed by the Agency for Health Care Policy and Research).

(b) PROVISION OF HEALTH CARE UNDER GUIDELINES.—Notwithstanding any other provision of law, in any medical malpractice liability action arising from the conduct of a health care provider or health care professional, if such conduct was in accordance with a guideline developed by the State in which the conduct occurred and certified by the Secretary under subsection (a), the guideline—

(1) may be introduced by any party to the action (including a health care provider, health care professional, or patient); and

(2) if introduced, shall establish a rebuttable presumption that the conduct was in accordance with the appropriate standard of medical care, which may only be overcome by the presentation of clear and convincing evidence on behalf of the party against whom the presumption operates.

SEC. 8124. TREATMENT OF NONECONOMIC AND PUNITIVE DAMAGES.

(a) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant and the members of the claimant's family for losses resulting from the injury which is the subject of a medical malpractice liability action may not exceed $500,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(b) NO AWARD OF PUNITIVE DAMAGES AGAINST MANUFACTURER OF MEDICAL PRODUCT.—In the case of a medical malpractice liability action in which the plaintiff alleges a claim against the manufacturer of a medical product, no punitive or exemplary damages may be awarded against such manufacturer.

(c) JOINT AND SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.—The liability of each defendant for noneconomic damages shall be several only and shall not be joint, and each defendant shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the defendant's percentage of responsibility (as determined by the trier of fact).

(d) USE OF PUNITIVE DAMAGE AWARDS FOR OPERATION OF ADR SYSTEMS IN STATES.—

(1) IN GENERAL.—The total amount of any punitive damages awarded in a medical malpractice liability action shall be paid to the State in which the action is brought (or, in a case brought in Federal court, in the State in which the health care services that caused the injury that is the subject of the action were provided), and shall be used by the State solely to implement and operate the State alternative dispute resolution system certified by the Secretary under section 8132 (except as provided in paragraph (2)).

(2) USE OF REMAINING AMOUNTS FOR PROVIDER LICENSING AND DISCIPLINARY ACTIVITIES.—If the amount of punitive damages paid to a State under paragraph (1) for a year is greater than the State's costs of implementing and operating the State alternative dispute resolution system during the year, the balance of such punitive damages paid to the State shall be used solely to carry out activities to assure the safety and quality of health care services provided in the State, including (but not limited to)—

(A) licensing or certifying health care professionals and health care providers in the State; and

(B) carrying out programs to reduce malpractice-related costs for providers volunteering to provide services in medically underserved areas.

(3) MAINTENANCE OF EFFORT.—A State shall use any amounts paid pursuant to paragraph (1) to supplement and not to replace amounts spent by the State for implementing and operating the State alternative dispute resolution system or carrying out the activities described in paragraph (2).

(e) DRUGS AND DEVICES.—

(1)(A) Punitive damages shall not be awarded against a manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) which caused the claimant's harm where—

(i) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug was approved by the Food and Drug Administration; or

(ii) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(B) Subparagraph (A) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(i) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(ii) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(2) PACKAGING.—In a product liability action for harm which is alleged to relate to the adequacy of the packaging (or labeling relating to such packaging) of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer of the drug shall not be held liable for punitive damages unless the drug is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

SEC. 8125. PERIODIC PAYMENTS FOR FUTURE LOSSES.

(a) IN GENERAL.—In any medical malpractice liability action in which the damages awarded for future economic loss exceeds $100,000, a defendant may not be required to pay such damages in a single, lump-sum payment, but may be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court, based upon projections of when such expenses are likely to be incurred.

(b) WAIVER.—A court may waive the application of subsection (a) with respect to a defendant if the court determines that it is not in the best interests of the plaintiff to receive payments for damages on such a periodic basis.

SEC. 8126. TREATMENT OF ATTORNEY'S FEES AND OTHER COSTS.

(a) REQUIRING PARTY CONTESTING ADR RULING TO PAY ATTORNEY'S FEES AND OTHER COSTS.—

(1) IN GENERAL.—The court in a medical malpractice liability action shall require the party that (pursuant to section 8122(c)(1)) contested the ruling of the alternative dispute resolution system with respect to the medical malpractice liability claim that is the subject of the action to pay to the opposing party the costs incurred by the opposing party under the action, including attorney's fees, fees paid to expert witnesses, and other litigation expenses (but not including court costs, filing fees, or other expenses paid directly by the party to the court, or any fees or costs associated with the resolution of the claim under the alternative dispute resolution system), but only if—

(A) in the case of an action in which the party that contested the ruling is the claimant, the amount of damages awarded to the party under the action is less than the amount of damages awarded to the party under the ADR system; and

(B) in the case of an action in which the party that contested the ruling is the defendant, the amount of damages assessed against the party under the action is greater than the amount of damages assessed under the ADR system.

(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

(A) the party contesting the ruling made under the previous alternative dispute resolution system shows that—

(i) the ruling was procured by corruption, fraud, or undue means,

(ii) there was partiality or corruption under the system,

(iii) there was other misconduct under the system that materially prejudiced the party's rights, or

(iv) the ruling was based on an error of law;

(B) the party contesting the ruling made under the alternative dispute resolution system presents new evidence before the trier of fact that was not available for presentation under the ADR system;

(C) the medical malpractice liability action raised a novel issue of law; or

(D) the court finds that the application of such paragraph to a party would constitute an undue hardship, and issues an order waiving or modifying the application of such paragraph that specifies the grounds for the court's decision.

(3) LIMIT ON ATTORNEYS' FEES PAID.—Attorneys' fees that are required to be paid under paragraph (1) by the contesting party shall not exceed the amount of the attorneys' fees incurred by the contesting party in the action. If the attorneys' fees of the contesting party are based on a contingency fee agreement, the amount of attorneys' fees for purposes of the preceding sentence shall not exceed the reasonable value of those services.

(4) RECORDS.—In order to receive attorneys' fees under paragraph (1), counsel of record in the medical malpractice liability action involved shall maintain accurate, complete records of hours worked on the action, regardless of the fee arrangement with the client involved.

(b) CONTINGENCY FEE DEFINED.—As used in this section, the term ''contingency fee'' means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 8127. UNIFORM STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no medical malpractice claim may be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of such claim was discovered, but in no event may such a claim be initiated after the expiration of the 4-year period that begins on the date on which the alleged injury that is the subject of such claim occurred.

(b) EXCEPTION FOR MINORS.—In the case of an alleged injury suffered by a minor who has not attained 6 years of age, a medical malpractice claim may not be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of such claim was discovered or should reasonably have been discovered, but in no event may such a claim be initiated after the date on which the minor attains 12 years of age.

SEC. 8128. SPECIAL PROVISION FOR CERTAIN OBSTETRIC SERVICES.

(a) IN GENERAL.—In the case of a medical malpractice claim relating to services provided during labor or the delivery of a baby, if the health care professional or health care provider against whom the claim is brought did not previously treat the claimant for the pregnancy, the trier of fact may not find that such professional or provider committed malpractice and may not assess damages against such professional or provider unless the malpractice is proven by clear and convincing evidence.

(b) APPLICABILITY TO GROUP PRACTICES OR AGREEMENTS AMONG PROVIDERS.—For purposes of subsection (a), a health care professional shall be considered to have previously treated an individual for a pregnancy if the professional is a member of a group practice whose members previously treated the individual for the pregnancy or is providing services to the individual during labor or the delivery of a baby pursuant to an agreement with another professional.

SEC. 8129. JURISDICTION OF FEDERAL COURTS.

Nothing in this subpart shall be construed to establish any jurisdiction over any medical malpractice liability action in the district courts of the United States on the basis of sections 1331 or 1337 of title 28, United States Code.

SEC. 8130. PREEMPTION.

(a) IN GENERAL.—The provisions of this subpart shall preempt any State law to the extent such law is inconsistent with such provisions, except that the provisions of this subpart shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this part, places greater limitations on the amount of attorneys' fees that can be collected, or otherwise imposes greater restrictions than those provided in this part.

(b) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this subpart shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground in inconvenient forum.

Subpart B—Requirements for State Alternative Dispute Resolution Systems (ADR)

SEC. 8131. BASIC REQUIREMENTS.

(a) IN GENERAL.—A State's alternative dispute resolution system meets the requirements of this section if the system—

(1) applies to all medical malpractice liability claims under the jurisdiction of the courts of that State;

(2) requires that a written opinion resolving the dispute be issued not later than 6 months after the date by which each party against whom the claim is filed has received notice of the claim (other than in exceptional cases for which a longer period is required for the issuance of such an opinion), and that the opinion contain—

(A) findings of fact relating to the dispute, and

(B) a description of the costs incurred in resolving the dispute under the system (including any fees paid to the individuals hearing and resolving the claim), together with an appropriate assessment of the costs against any of the parties;

(3) requires individuals who hear and resolve claims under the system to meet such qualifications as the State may require (in accordance with regulations of the Secretary);

(4) is approved by the State or by local governments in the State;

(5) with respect to a State system that consists of multiple dispute resolution procedures—

(A) permits the parties to a dispute to select the procedure to be used for the resolution of the dispute under the system, and

(B) if the parties do not agree on the procedure to be used for the resolution of the dispute, assigns a particular procedure to the parties;

(6) provides for the transmittal to the State agency responsible for monitoring or disciplining health care professionals and health care providers of any findings made under the system that such a professional or provider committed malpractice, unless, during the 90-day period beginning on the date the system resolves the claim against the professional or provider, the professional or provider brings an action contesting the decision made under the system; and

(7) provides for the regular transmittal to the Administrator for Health Care Policy and Research of information on disputes resolved under the system, in a manner that assures that the identity of the parties to a dispute shall not be revealed.

(b) APPLICATION OF MALPRACTICE LIABILITY STANDARDS TO ALTERNATIVE DISPUTE RESOLUTION.—The provisions of subpart A (other than section 8122) shall apply with respect to claims brought under a State alternative dispute resolution system or the alternative Federal system in the same manner as such provisions apply with respect to medical malpractice liability actions brought in the State.

SEC. 8132. CERTIFICATION OF STATE SYSTEMS; APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.

(a) CERTIFICATION.—

(1) IN GENERAL.—Not later than October 1 of each year (beginning with 1995), the Secretary, in consultation with the Attorney General, shall determine whether a State's alternative dispute resolution system meets the requirements of this subpart for the following calendar year.

(2) BASIS FOR CERTIFICATION.—The Secretary shall certify a State's alternative dispute resolution system under this subsection for a calendar year if the Secretary determines under paragraph (1) that the system meets the requirements of section 8131, including the requirement described in section 8124 that punitive damages awarded under the system are paid to the State for the uses described in such section.

(b) APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.—

(1) ESTABLISHMENT AND APPLICABILITY.—Not later than October 1, 1995, the Secretary, in consultation with the Attorney General, shall establish by rule an alternative Federal ADR system for the resolution of medical malpractice liability claims during a calendar year in States that do not have in effect an alternative dispute resolution system certified under subsection (a) for the year.

(2) REQUIREMENTS FOR SYSTEM.—Under the alternative Federal ADR system established under paragraph (1)—

(A) paragraphs (1), (2), (6), and (7) of section 8131(a) shall apply to claims brought under the system;

(B) if the system provides for the resolution of claims through arbitration, the claims brought under the system shall be heard and resolved by arbitrators appointed by the Secretary in consultation with the Attorney General; and

(C) with respect to a State in which the system is in effect, the Secretary may (at the State's request) modify the system to take into account the existence of dispute resolution procedures in the State that affect the resolution of medical malpractice liability claims.

(3) TREATMENT OF STATES WITH ALTERNATIVE SYSTEM IN EFFECT.—If the alternative Federal ADR system established under this subsection is applied with respect to a State for a calendar year, the State shall make a payment to the United States (at such time

and in such manner as the Secretary may require) in an amount equal to 110 percent of the costs incurred by the United States during the year as a result of the application of the system with respect to the State.

SEC. 8133. REPORTS ON IMPLEMENTATION AND EFFECTIVENESS OF ALTERNATIVE DISPUTE RESOLUTION SYSTEMS.

(a) IN GENERAL.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a report describing and evaluating State alternative dispute resolution systems operated pursuant to this subpart and the alternative Federal system established under section 8132(b).

(b) CONTENTS OF REPORT.—The Secretary shall include in the report prepared and submitted under subsection (a)—

(1) information on—

(A) the effect of the alternative dispute resolution systems on the cost of health care within each State,

(B) the impact of such systems on the access of individuals to health care within the State, and

(C) the effect of such systems on the quality of health care provided within the State; and

(2) to the extent that such report does not provide information on no-fault systems operated by States as alternative dispute resolution systems pursuant to this part, an analysis of the feasibility and desirability of establishing a system under which medical malpractice liability claims shall be resolved on a no-fault basis.

Subpart C—Definitions

SEC. 8141. DEFINITIONS.

As used in this part:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM.—The term ''alternative dispute resolution system'' means a system that is enacted or adopted by a State to resolve medical malpractice claims other than through a medical malpractice liability action.

(2) CLAIMANT.—The term ''claimant'' means any person who brings a health care liability action and, in the case of an individual who is deceased, incompetent, or a minor, the person on whose behalf such an action is brought.

(3) CLEAR AND CONVINCING EVIDENCE.—The term ''clear and convincing evidence'' is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(4) ECONOMIC DAMAGES.—The term ''economic damages'' means damages paid to compensate an individual for losses for hospital and other medical expenses, lost wages, lost employment, and other pecuniary losses.

(5) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State.

(6) HEALTH CARE PROVIDER.—The term ''health care provider'' means any organization or institution that is engaged in the delivery of health care services in a State that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(7) INJURY.—The term ''injury'' means any illness, disease, or other harm that is the subject of a medical malpractice claim.

(8) MEDICAL MALPRACTICE LIABILITY ACTION.—The term ''medical malpractice liability action'' means any civil action brought pursuant to State law in which a plaintiff alleges a medical malpractice claim against a health care provider or health care professional, but does not include any action in which the plaintiff's sole allegation is an allegation of an intentional tort.

(9) MEDICAL MALPRACTICE CLAIM.—The term ''medical malpractice claim'' means any claim relating to the provision of (or the failure to provide) health care services or the use of a medical product, without regard to the theory of liability asserted, and includes any third-party claim, cross-claim, counterclaim, or contribution claim in a medical malpractice liability action.

(10) MEDICAL PRODUCT.—

(A) IN GENERAL.—The term ''medical product'' means, with respect to the allegation of a claimant, a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) if—

(i) such drug or device was subject to premarket approval under section 505, 507, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 357, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which is the subject of the claimant's allegation or the adequacy of the packaging or labeling of such drug or device, and such drug or device is approved by the Food and Drug Administration; or

(ii) the drug or device is generally recognized as safe and effective under regulations issued by the Secretary of Health and Human Services under section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)).

(B) EXCEPTION IN CASE OF MISREPRESENTATION OR FRAUD.—Notwithstanding subparagraph (A), the term ''medical product'' shall not include any product described in such subparagraph if the claimant shows that the product is approved by the Food and Drug Administration for marketing as a result of withheld information, misrepresentation, or an illegal payment by manufacturer of the product.

(11) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages paid to compensate an individual for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary losses, but does not include punitive damages.

(12) PUNITIVE DAMAGES.—The term ''punitive damages'' means compensation, in addition to compensation for actual harm suffered, that is awarded for the purpose of punishing a person for conduct deemed to be malicious, wanton, willful, or excessively reckless.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

SEC. 8151. MODIFICATION OF PAYMENT AREAS USED TO DETERMINE PAYMENTS FOR PHYSICIANS' SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1848(j)(2) (42 U.S.C. 1395w@4(j)(2)) is amended to read as follows:

''(2) FEE SCHEDULE AREA.—

''(A) GENERAL RULE.—Except as provided in subparagraph (B), the term 'fee schedule area' means, with respect to physicians' services furnished in a State, the State.

''(B) EXCEPTION FOR STATES WITH HIGHEST VARIATION AMONG AREAS.—In the case of the 15 States with the greatest variation in cost associated with physicians' services among various geographic areas of the State (as determined by the Secretary in accordance with such standards as the Secretary considers appropriate), the fee schedule area applicable with respect to physicians' services furnished in the State shall be a locality used under section 1842(b) for purposes of computing payment amounts for physicians' services, except that the Secretary shall revise the localities used under such section so that there are no more than 5 such localities in any State.''.

(b) BUDGET-NEUTRALITY REQUIREMENT.—The Secretary of Health and Human Services shall carry out the amendment made by subsection (a) in a manner which ensures that the aggregate amount of payment made for physicians' services under part B of the medicare program in any year does not exceed the aggregate amount of payment which would have been made for such services under part B during the year if the amendment were not in effect.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to physicians' services furnished on or after January 1, 1997.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

SEC. 8201. ONE-YEAR FREEZE IN PAYMENTS TO PROVIDERS.

(a) FREEZE IN UPDATES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, except as otherwise provided in paragraph (2), for purposes of determining the amount to paid for an item or service under title XVIII of the Social Security Act, the percentage increase in any economic index by which a payment amount under title XVIII of the Social Security Act is required to be increased during fiscal year 1996 shall be deemed to be zero.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to the determination of hospital-specific FTE resident amounts under section 1886(h) of such Act.

(b) ECONOMIC INDEX.— The term ''economic index'' includes—

(1) the hospital market basket index (described in section 1886(b)(3)(B)(iii) of the Social Security Act),

(2) the medicare economic index (referred to in the fourth sentence of section 1842(b)(3) of such Act),

(3) the consumer price index for all urban consumers (U.S. city average), and

(4) any other index used to adjust payment amounts under title XVIII of such Act.

(c) EXTENSION OF PAYMENT FREEZE FOR SNFS AND HHAS.—

(1) SKILLED NURSING FACILITIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13503(a)(1) of OBRA–1993 is amended by striking ''1994 and 1995'' and inserting ''1994, 1995, and 1996''.

(B) DELAY IN UPDATES; NO CATCH UP.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended—

(i) by striking ''1995'' and inserting ''1996'', and

(ii) by striking ''subsection.'' and inserting ''subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during cost reporting periods which began during fiscal year 1994, 1995, or 1996).''.

(C) PROSPECTIVE PAYMENTS.—Section 13505(b) of OBRA–1993 is amended by striking ''fiscal years 1994 and 1995'' and inserting ''fiscal years 1994, 1995, and 1996''.

(2) HOME HEALTH AGENCIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13564(a)(1) of OBRA–1993 is amended by striking ''1996'' and inserting ''1997''.

(B) DELAY IN UPDATES; NO CATCH UP.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended—

(i) by striking ''1996'' and inserting ''1997'', and

(ii) by adding at the end the following: ''In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1997.''.

PART 2—PROVISIONS AFFECTING DOCTORS

SEC. 8211. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) IN GENERAL.—Section 1848(d)(2) (42 U.S.C. 1395ww(d)(2)) is amended to read as follows:

''(2) RECOMMENDATION OF UPDATE.—

''(A) IN GENERAL.—Not later than April 15 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report that includes a recommendation on the appropriate update in the conversion factor for all physicians' services (as defined in subsection (f)(3)(A)) in the following year. In making the recommendation, the Secretary shall consider—

''(i) the percentage change in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for that year;

''(ii) such factors as enter into the calculation of the update adjustment factor as described in paragraph (3)(B); and

''(iii) access to services.

''(B) ADDITIONAL CONSIDERATIONS.—In making recommendations under subparagraph (A), the Secretary may also consider—

''(i) unexpected changes by physicians in response to the implementation of the fee schedule;

''(ii) unexpected changes in outlay projections;

''(iii) changes in the quality or appropriateness of care;

''(iv) any other relevant factors not measured in the resource-based payment methodology; and

''(v) changes in volume or intensity of services.

''(C) COMMISSION REVIEW.—The Medicare Payment Review Commission shall review the report submitted under subparagraph (A) in a year and shall submit to the Congress, by not later than May 15 of the year, a report including its recommendations respecting the update in the conversion factor for the following year.''.

(2) UPDATE.—Section 1848(d)(3) (42 U.S.C. 1395w@4(d)(3)) is amended to read as follows:

''(3) UPDATE.—

''(A) IN GENERAL.—Unless Congress otherwise provides, subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

''(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

''(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—

''(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by

''(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year.

''(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):

''(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June 30, 1995.

''(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.

''(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

''(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

''(i) greater than 103 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100; or

''(ii) less than 91.75 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1997.

(b) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—Section 1848(f) (42 U.S.C. 1395w@4(f)) is amended to read as follows:

''(f) SUSTAINABLE GROWTH RATE.—

''(1) PROCESS FOR ESTABLISHING SUSTAINABLE GROWTH RATE OF INCREASE.—

''(A) SECRETARY'S RECOMMENDATION.—By not later than April 15 of each year (beginning with 1996), the Secretary shall transmit to the Congress a recommendation on the sustainable growth rate for the fiscal year beginning in such year. In making the recommendation, the Secretary shall confer with organizations representing physicians and shall consider—

''(i) inflation,

''(ii) changes in numbers of enrollees (other than private plan enrollees) under this part,

''(iii) changes in the age composition of enrollees (other than private plan enrollees) under this part,

''(iv) changes in technology,

''(v) evidence of inappropriate utilization of services,

''(vi) evidence of lack of access to necessary physicians' services, and

''(vii) such other factors as the Secretary considers appropriate.

''(B) COMMISSION REVIEW.—The Medicare Payment Review Commission shall review the recommendation transmitted during a year under subparagraph (A) and shall make its recommendation to Congress, by not later than May 15 of the year, respecting the sustainable growth rate for the fiscal year beginning in that year.

''(C) PUBLICATION OF SUSTAINABLE GROWTH RATE.—The Secretary shall cause to have the sustainable growth rate published in the Federal Register, in the last 15 days of October of each calendar year (beginning with 1997), for the fiscal year beginning in that year. The Secretary shall cause to have published in the Federal Register, by not later than January 1, 1997, the paragraph (2) for fiscal year 1997.

''(2) SPECIFICATION OF GROWTH RATE.—

''(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

''(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

''(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, and

''(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law (including the Common Sense Balanced Budget Act of 1995), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

''(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

''(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

''(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, and

''(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

''(3) DEFINITIONS.—In this subsection:

''(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a private plan enrollee.

''(B) PRIVATE PLAN ENROLLEE.—The term 'private plan enrollee' means, with respect to a fiscal year, an individual enrolled under

this part who has elected to receive benefits under this title for the fiscal year through a Medicare Choice product under part C or through enrollment with an eligible organization with a risk-sharing contract under section 1876.''.

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w@4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $36.40 for all physicians' services.''.

(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w@4), as amended by paragraph (1), is amended—

(A) by striking ''(or factors)'' each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii);

(B) in subsection (d)(1)(A), by striking ''or updates'';

(C) in subsection (d)(1)(D)(ii), by striking ''(or updates)''; and

(D) in subsection (i)(1)(C), by striking ''conversion factors'' and inserting ''the conversion factor''.

PART 3—PROVISIONS AFFECTING HOSPITALS

SEC. 8221. REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by amending subclause (XII) to read as follows:

''(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals in a rural area, and the market basket percentage increase minus 1.5 percentage points for all other hospitals, and''; and

(2) in subclause (XIII), by striking ''1998'' and inserting ''2003''.

(b) PPS-EXEMPT HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking ''thorugh 1997'' and inserting ''through 1996'', and

(ii) by striking ''and'' at the end;

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V) the following new subclause:

''(VI) fiscal years 1997 through 2002, is the market basket percentage increase minus 1.0 percentage point, and''.

(2) CONFORMING AMENDMENT.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking clause (v).

SEC. 8222. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after January 1, 1996.

SEC. 8223. ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM FOR OUTPATIENT SERVICES.

(a) IN GENERAL.—Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by striking ''section 1886)—'' and all that follows and inserting the following: ''section 1886), an amount equal to a prospectively determined payment rate established by the Secretary that provides for payments for such items and services to be based upon a national rate adjusted to take into account the relative costs of furnishing such items and services in various geographic areas, except that for items and services furnished during cost reporting periods (or portions thereof) in years beginning with 1996, such amount shall be equal to 95 percent of the amount that would otherwise have been determined;''.

(b) ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM.—Not later than July 1, 1995, the Secretary of Health and Human Services shall establish the prospective payment system for hospital outpatient services necessary to carry out section 1833(a)(2)(B) of the Social Security Act (as amended by subsection (a)).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 1997.

SEC. 8224. REDUCTION IN MEDICARE PAYMENTS TO HOSPITALS FOR INPATIENT CAPITAL-RELATED COSTS.

(a) PPS HOSPITALS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by striking ''1995'' and inserting ''2002''.

(b) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following:

''(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 10 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal year 1996 through 2002.''.

SEC. 8225. MORATORIUM ON PPS EXEMPTION FOR LONG-TERM CARE HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by striking ''Secretary)'' and inserting ''Secretary on or before September 30, 1995)''.

(b) RECOMMENDATIONS ON APPROPRIATE STANDARDS FOR LONG-TERM CARE HOSPITALS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress recommendations for modifications to the standards used by the Secretary to determine whether a hospital (including a distinct part of another hospital) is classified as a long-term care hospital for purposes of determining the amount of payment to the hospital under part A of the medicare program for the operating costs of inpatient hospital services.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

SEC. 8231. REVISION OF PAYMENT METHODOLOGY FOR HOME HEALTH SERVICES.

(a) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

''(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

''(I) costs determined under the preceding provisions of this subparagraph, or

''(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including non-routine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of Medicare patients for the year subject to the limitation. The limitation shall represent total Medicare reasonable costs divided by the unduplicated census count of Medicare patients.

''(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

''(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

''(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitation shall be pro-rated among agencies.

''(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate Medicare reasonable cost in a year.

''(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.''.

(b) USE OF INTERIM FINAL REGULATIONS.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(c) STUDIES.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(d) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Title XVIII is amended by adding at the end the following new section:

''PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

''SEC. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

''(b) Such a system shall include the following:

''(1) Per episode rates under the system shall be 15 percent less than those that would otherwise occur under fiscal year 2000 Medicare expenditures for home health services.

''(2) All services covered and paid on a reasonable cost basis under the Medicare home health benefit as of the date of the enactment of the Medicare Enhancement Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode the use of services and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

''(c) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

''(d) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

''(e) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

''(f) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be pro-rated between home health agencies.''.

SEC. 8232. LIMITATION OF HOME HEALTH COVERAGE UNDER PART A.

(a) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting ''for up to 150 days during any spell of illness;''.

(b) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(1) by striking ''or'' at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting ''; or'', and

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

''(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 150 days during such spell.''.

(c) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(1) in the second sentence of paragraph (1), by striking ''enrollees.'' and inserting ''enrollees (except as provided in paragraph (5)).''; and

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

''(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).''.

(d) EFFECTIVE DATE.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

SEC. 8233. REDUCTION IN FEE SCHEDULE FOR DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking ''a subsequent year'' and inserting ''1993, 1994, and 1995'', and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) for each of the years 1996 through 2002, 0 percent; and

''(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.''.

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking ''1994 and 1995'' and inserting ''each of the years 1994 through 2002''.

(b) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking ''and'' at the end of clause (iii);

(2) in clause (iv)—

(A) by striking ''a subsequent year'' and inserting ''1993, 1994, and 1995'', and

(B) by striking the period at the end and inserting ''; and''; and

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

''(v) in 1996 and each subsequent year, is 90 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year.''.

SEC. 8234. NURSING HOME BILLING.

(a) PAYMENTS FOR ROUTINE SERVICE COSTS.—

(1) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

''(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment limits under section 1888A.''.

(2) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting ''AND CERTAIN ANCILLARY'' after ''SERVICE''.

(b) INCENTIVES FOR COST EFFECTIVE MANAGEMENT OF COVERED NONROUTINE SERVICES.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following new section:

''INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

''SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

''(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

''(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

''(B) Prescription drugs.

''(C) Complex medical equipment.

''(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

''(E) Radiation therapy.

''(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

''(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to the percentage increase in routine service cost limits for the year under section 1888(a).

''(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title to the individual during the individual's spell of illness.

''(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES.—

''(1) IN GENERAL.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period beginning during a fiscal year (after fiscal year 1996) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period limit determined under subsection (c)(1)(B).

''(2) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

''(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any

other contracting or consulting arrangement, or otherwise).

''(c) RECONCILIATION OF AMOUNTS.—

''(1) LIMIT BASED ON PER STAY LIMIT AND NUMBER OF STAYS.—

''(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

''(B) COST REPORTING PERIOD LIMIT.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

''(i) the per stay limit applicable to the facility under subsection (d) for the period; and

''(ii) the number of stays beginning during the period for which payment was made to the facility for such services.

''(C) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

''(2) INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in an amount that is less than the amount determined under paragraph (1)(B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under subsection (b) for the previous fiscal year (without regard to subparagraph (B)).

''(B) INSTALLMENT INCENTIVE PAYMENTS.—The Secretary may make installment payments during a fiscal year to a skilled nursing facility based on the estimated incentive payment that the facility would be eligible to receive with respect to such fiscal year.

''(d) DETERMINATION OF FACILITY PER STAY LIMIT.—

''(1) LIMIT FOR FISCAL YEAR 1997.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall establish separate per stay limits for hospital-based and freestanding skilled nursing facilities for the 12-month cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

''(i) 50 percent of the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997; and

''(ii) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (i), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997.

''(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A)(ii).

''(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after fiscal year 1997 is equal to the per stay limit established under this subsection for the 12-month cost reporting period beginning during the previous fiscal year, increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

''(3) REBASING OF AMOUNTS.—

''(A) IN GENERAL.—The Secretary shall provide for an update to the facility-specific amounts used to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

''(B) TREATMENT OF FACILITIES NOT HAVING REBASED COST REPORTING PERIODS.—Paragraph (1)(B) shall apply with respect to a skilled nursing facility for which payments were not made under this title for covered non-routine services for the 12-month cost reporting period used by the Secretary to update facility-specific amounts under subparagraph (A) in the same manner as such paragraph applies with respect to a facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994.

''(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is the sum of—

''(1) the average amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay (as determined on a per diem basis); and

''(2) the Secretary's best estimate of the average amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary.

''(f) INTENSIVE NURSING OR THERAPY NEEDS.—

''(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period beginning during a fiscal year (beginning with fiscal years after fiscal year 1997) to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay limit for such resident shall be the per stay limit developed under paragraph (2) instead of the per stay limit determined under subsection (d)(1)(A).

''(2) PER STAY LIMIT FOR INTENSIVE NEED RESIDENTS.—Not later than June 30, 1997, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a per stay limit for residents of a skilled nursing facility who require intensive nursing or therapy services.

''(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

''(g) SPECIAL TREATMENT FOR SMALL SKILLED NURSING FACILITIES.—This section shall not apply with respect to a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

''(h) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

''(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting limits applicable to a skilled nursing facility under subsection (c)(1)(B) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

''(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

''(i) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.''.

(2) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking ''1813 and 1886'' and inserting ''1813, 1886, 1888, and 1888A''.

SEC. 8235. FREEZE IN PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking ''1994 and 1995'' and inserting ''1994 through 2002''.

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

SEC. 8241. TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.

(a) TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding at the end the following title:

''TITLE XXI—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

''PART A—ESTABLISHMENT OF FUND

''SEC. 2101. ESTABLISHMENT OF FUND.

''(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts transferred to the Fund under subsection (c), amounts appropriated to the Fund pursuant to subsections (d) and (e)(3), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

''(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2111.

''(c) TRANSFERS TO FUND.—

''(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1996 and each subsequent fiscal year, transfer to the Fund an amount determined by the Secretary for the fiscal year involved in accordance with paragraph (2).

''(2) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1), the amount determined under this paragraph for a fiscal year is an estimate by the Secretary of an amount equal to 75 percent of the difference between—

''(A) the nationwide total of the amounts that would have been paid under sections 1855 and 1876 during the year but for the operation of section 1855(b)(2)(B)(ii); and

''(B) the nationwide total of the amounts paid under such sections during the year.

''(3) ALLOCATION BETWEEN MEDICARE TRUST FUNDS.—In providing for a transfer under paragraph (1) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B of title XVIII (and the trust funds established under the respective parts) as reasonably reflects the proportion of payments for the indirect costs of medical education and direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary for each of the fiscal years 1996 through 2002.

''(e) INVESTMENT.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

''(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

''PART B—PAYMENTS TO TEACHING HOSPITALS

''SEC. 2111. FORMULA PAYMENTS TO TEACHING HOSPITALS.

''(a) IN GENERAL.—In the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1996 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and shall be made in accordance with a formula established by the Secretary.

''(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.''.

(b) NATIONAL ADVISORY COUNCIL ON POSTGRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Postgraduate Medical Education (in this title referred to as the ''Council'').

(2) DUTIES.—The council shall provide advice to the Secretary on appropriate policies for making payments for the support of postgraduate medical education in order to assure an adequate supply of physicians trained in various specialities, consistent with the health care needs of the United States.

(3) COMPOSITION.—

(A) IN GENERAL.—The Secretary shall appoint to the Council 15 individuals who are not officers or employees of the United States. Such individuals shall include not less than 1 individual from each of the following categories of individuals or entities:

(i) Organizations representing consumers of health care services.

(ii) Physicians who are faculty members of medical schools, or who supervise approved physician training programs.

(iii) Physicians in private practice who are not physicians described in clause (ii).

(iv) Practitioners in public health.

(v) Advanced-practice nurses.

(vi) Other health professionals who are not physicians.

(vii) Medical schools.

(viii) Teaching hospitals.

(ix) The Accreditation Council on Graduate Medical Education.

(x) The American Board of Medical Specialities.

(xi) The Council on Postdoctoral Training of the American Osteopathic Association.

(xii) The Council on Podiatric Medical Education of the American Podiatric Medical Association.

(B) REQUIREMENTS REGARDING REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, shall reflect the racial, ethnic, and gender composition of the population of the United States, and shall be broadly representative of medical schools and teaching hospitals in the United States.

(C) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

(i) The Secretary of Health and Human Services.

(ii) The Secretary of Veterans Affairs.

(iii) The Secretary of Defense.

(4) CHAIR.—The Secretary shall, from among members of the council appointed under paragraph (3)(A), designate an individual to serve as the chair of the council.

(5) TERMINATION.—The Council terminates December 31, 1999.

(c) REMOVE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—For provision removing medical education and disproportionate share hospital payments from calculation of payment amounts for organizations paid on a capitated basis, see section 1855(b)(2)(B)(ii).

(2) PAYMENTS TO HOSPITALS OF AMOUNTS ATTRIBUTABLE TO DSH.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(j)(1) In addition to amounts paid under subsection (d)(5)(F), the Secretary is authorized to pay hospitals which are eligible for such payments for a fiscal year supplemental amounts that do not exceed the limit provided for in paragraph (2).

''(2) The sum of the aggregate amounts paid pursuant to paragraph (1) for a fiscal year shall not exceed the Secretary's estimate of 75 percent of the amount of reductions in payments under section 1855 that are attributable to the operation of subsection (b)(2)(B)(ii) of such section.''.

SEC. 8242. REDUCTION IN PAYMENT ADJUSTMENTS FOR INDIRECT MEDICAL EDUCATION.

(a) MODIFICATION REGARDING 6.8 PERCENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) by striking ''on or after October 1, 1988,'' and inserting ''on or after October 1, 1999,''; and

(2) by striking ''1.89'' and inserting ''1.68''.

(b) SPECIAL RULE REGARDING FISCAL YEARS 1996 THROUGH 1998; MODIFICATION REGARDING 6 PERCENT.—Section 1886(d)(5)(B)(ii), as amended by paragraph (1), is amended by adding at the end the following: ''In the case of discharges occurring on or after October 1, 1995, and before October 1, 1999, the preceding sentence applies to the same extent and in the same manner as the sentence applies to discharges occurring on or after October 1, 1999, except that the term '1.68' is deemed to be 1.48.''.

Subtitle D—Provisions Relating to Medicare Beneficiaries

SEC. 8301. PART B PREMIUM.

(a) FREEZE IN PREMIUM FOR 1996.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking ''December 1995'' and inserting ''December 1996''; and

(2) in subparagraph (B)(v), by striking ''1995'' and inserting ''1995 and 1996''.

(b) ESTABLISHING PREMIUM AT 25 PERCENT OF PROGRAM COSTS THROUGH 2002.—Section 1839(e)(1)(A) (42 U.S.C. 1395r(e)(1)(A)) is amended by striking ''January 1999'' and inserting ''January 2003''.

SEC. 8302. FULL COST OF MEDICARE PART B COVERAGE PAYABLE BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

''PART VIII—SUPPLEMENTAL MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

''Sec. 59B. Supplemental Medicare part B premium.

''SEC. 59B. SUPPLEMENTAL MEDICARE PART B PREMIUM.

''(a) REQUIREMENT TO PAY PREMIUM.—In the case of an individual to whom this section applies for the taxable year, there is hereby imposed (in addition to any other amount imposed by this subtitle) an amount equal to the aggregate of the supplemental Medicare part B premiums (if any) for months during such year that such individual is covered under Medicare part B.

''(b) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for any taxable year if—

''(1) such individual is covered under Medicare part B for any month during such year, and

''(2) the modified adjusted gross income of the taxpayer for such taxable year exceeds the threshold amount.

''(c) SUPPLEMENTAL MEDICARE PART B PREMIUM.—

''(1) IN GENERAL.—For purposes of subsection (a), the supplemental Medicare part B premium for any month is an amount equal to the excess of—

''(A) subject to adjustment under paragraph (2), 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839(a)(1) of the Social Security Act for such month, over

''(B) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

''(2) ADJUSTING MONTHLY ACTUARIAL RATE BY GEOGRAPHIC AREA.—

''(A) IN GENERAL.—In determining the amount described in paragraph (1)(A) for an individual residing in a premium area, the Secretary shall adjust such amount for a year by a geographic adjustment factor established by the Secretary which reflects the relative benefits and administrative costs payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in the year with respect to enrollees residing in such area compared to the national average of such benefits and costs.

''(B) PREMIUM AREA.—In this paragraph, a 'premium area' means a metropolitan statistical area or the portion of a State outside of any metropolitan statistical area.

''(d) PHASEIN.—

''(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $50,000, the amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $50,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

''(2) PHASEIN RANGE FOR JOINT RETURNS.—In the case of a joint return, paragraph (1) shall be applied by substituting '$75,000' for '$50,000'.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

''(A) except as otherwise provided in this paragraph, $50,000,

''(B) $75,000 in the case of a joint return, and

''(C) zero in the case of a taxpayer who—

''(i) is married at the close of the taxable year but does not file a joint return for such year, and

''(ii) does not live apart from his spouse at all times during the taxable year.

''(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

''(A) determined without regard to sections 135, 911, 931, and 933, and

''(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

''(3) JOINT RETURNS.—In the case of a joint return—

''(A) the amount imposed by subsection (a) shall be the sum of the amounts so imposed determined separately for each spouse, and

''(B) subsections (a) and (d) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

''(4) MEDICARE PART B COVERAGE.—An individual shall be treated as covered under Medicare part B for any month if a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part for the month.

''(5) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703.

''(f) COORDINATION WITH OTHER PROVISIONS.—

''(1) TREATMENT AS MEDICAL EXPENSE.—For purposes of section 213, the supplemental Medicare part B premium imposed by this section shall be treated as an amount paid for insurance covering medical care (as defined in section 213(d)).

''(2) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F (other than section 6654), the supplemental Medicare part B premium imposed by this section shall be treated as if it were a tax imposed by section 1.

''(3) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The supplemental Medicare part B premium imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit allowable under this chapter, or

''(B) the amount of the minimum tax imposed by section 55.''

(b) TRANSFERS TO SUPPLEMENTAL MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Supplemental Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Supplemental Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the portion of the supplemental Medicare part B premium (as defined in such section 59B) which is attributable to months during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) (relating to returns relating to social security benefits) is amended by striking ''and'' at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

''(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and''.

(2) Paragraph (2) of section 6050F(b) is amended to read as follows:

''(2) the information required to be shown on such return with respect to such individual.''

(3) Paragraph (1) of section 6050F(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) the Secretary of Health and Human Services in the case of the information specified in subsection (a)(1)(D).''

(4) The heading for section 6050F is amended by inserting ''**AND MEDICARE PART B COVERAGE**'' before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting ''and Medicare part B coverage'' before the period.

(d) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

''Part VIII. Supplemental Medicare part B premiums for high-income individuals.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 1995 in taxable years ending after December 31, 1995.

SEC. 8303. EXPANDED COVERAGE OF PREVENTIVE BENEFITS.

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iv), by striking ''but under 65 years of age,''; and

(2) by striking clause (v).

(b) COVERAGE OF SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(A) in the heading, by striking ''Smear'' and inserting ''Smear; Screening Pelvic Exam'';

(B) by striking ''(nn)'' and inserting ''(nn)(1)'';

(C) by striking ''3 years'' and all that follows and inserting ''3 years, or during the preceding year in the case of a woman described in paragraph (3).''; and

(D) by adding at the end the following new paragraphs:

''(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

''(3) A woman described in this paragraph is a woman who—

''(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical cancer; or

''(B) is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary).''.

(2) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by subsection (a)(2), is amended—

(A) by striking ''and (5)'' and inserting ''(5)''; and

(B) by striking the period at the end and inserting the following: '', and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn)).''.

(3) CONFORMING AMENDMENTS.—(A) Section 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended by inserting ''and screening pelvic exam'' after ''screening pap smear''.

(B) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting ''and screening pelvic exam'' after ''screening pap smear''.

(c) COVERAGE OF COLORECTAL SCREENING.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

''(d) FREQUENCY AND PAYMENT LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS, SCREENING FLEXIBLE SIGMOIDOSCOPIES, AND SCREENING COLONOSCOPY.—

''(1) FREQUENCY LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

''(A) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

''(B) in the case of any other individual, within the 11 months following the month in which a previous screening fecal-occult blood test was performed.

''(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

''(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

''(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

''(i) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

''(ii) in the case of any other individual, within the 59 months following the month in which a previous screening flexible sigmoidoscopy was performed.

''(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

''(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening colonoscopy for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

''(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening colonoscopy for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 47 months following the month in which a previous screening colonoscopy was performed.

''(C) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT HIGH RISK.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

''(4) REVISION OF FREQUENCY.—

''(A) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy based on age and such other factors as the Secretary believes to be pertinent.

''(B) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection.''.

(2) CONFORMING AMENDMENTS.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by striking ''subsection (h)(1),'' and inserting ''subsection (h)(1) or section 1834(d)(1),''.

(B) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w–4(a)(2)(A)) are each amended by striking ''a service'' and inserting ''a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)''.

(C) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (1)—

(I) in subparagraph (E), by striking ''and'' at the end;

(II) in subparagraph (F), by striking the semicolon at the end and inserting '', and''; and

(III) by adding at the end the following new subparagraph:

''(G) in the case of screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);''; and

(ii) in paragraph (7), by striking ''paragraph (1)(B) or under paragraph (1)(F)'' and inserting ''subparagraphs (B), (F), or (G) of paragraph (1)''.

(d) PROSTATE CANCER SCREENING TESTS.—

(1) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking ''and'' at the end of subparagraph (N) and subparagraph (O); and

(B) by inserting after subparagraph (O) the following new subparagraph:

''(P) prostate cancer screening tests (as defined in subsection (oo)); and''.

(2) TESTS DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Prostate Cancer Screening Tests

''(oo) The term 'prostate cancer screening test' means a test that consists of a digital rectal examination or a prostate-specific antigen blood test (or both) provided for the purpose of early detection of prostate cancer to a man over 40 years of age who has not had such a test during the preceding year.''.

(3) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORATORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after ''laboratory tests'' the following: ''(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)''.

(4) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by subsection (c)(3)(C), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking ''and'' at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting '', and'', and

(iii) by adding at the end the following new subparagraph:

''(H) in the case of prostate cancer screening test (as defined in section 1861(oo)) provided for the purpose of early detection of prostate cancer, which are performed more frequently than is covered under such section;''; and

(B) in paragraph (7), by striking ''or (G)'' and inserting ''(G), or (H)''.

(e) DIABETES SCREENING BENEFITS.—

(1) DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(A) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by subsection (d)(1), is amended—

(i) by striking ''and'' at the end of subparagraph (N);

(ii) by striking ''and'' at the end of subparagraph (O); and

(iii) by inserting after subparagraph (O) the following new subparagraph:

''(P) diabetes outpatient self-management training services (as defined in subsection (pp)); and''.

(B) DEFINITION.—Section 1861 (42 U.S.C. 1395x), as amended by subsection (d)(2), is amended by adding at the end the following new subsection:

''DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES

''(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

''(2) In paragraph (1)—

''(A) a 'certified provider' is an individual or entity that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

''(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity meets quality standards established by the Secretary, except that the individual or entity shall be deemed to have met such standards if the individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by the American Diabetes Association as meeting standards for furnishing the services.''.

(C) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(2) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(A) INCLUDING STRIPS AS DURABLE MEDICAL EQUIPMENT.—Section 1861(n) (42 U.S.C. 1395x(n)) is amended by striking the semicolon in the first sentence and inserting the following: '', and includes blood-testing strips for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes (as determined under standards established by the Secretary in consultation with the American Diabetes Association);''.

(2) PAYMENT FOR STRIPS BASED ON METHODOLOGY FOR INEXPENSIVE AND ROUTINELY PURCHASED EQUIPMENT.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking ''or'' at the end of clause (ii);

(B) by adding ''or'' at the end of clause (iii); and

(C) by inserting after clause (iii) the following new clause:

''(iv) which is a blood-testing strip for an individual with diabetes,''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2001.

Subtitle E—Medicare Fraud Reduction

SEC. 8401. INCREASING BENEFICIARY AWARENESS OF FRAUD AND ABUSE.

(a) BENEFICIARY OUTREACH EFFORTS.—The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall make ongoing efforts (through public service announcements, publications, and other appropriate methods) to alert individuals entitled to benefits under the medicare program of the existence of fraud and abuse committed against the program and the costs to the program of such fraud and abuse, and of the existence of the toll-free telephone line operated by the Secretary to receive information on fraud and abuse committed against the program.

(b) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary shall provide an explanation of benefits under the medicare program with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(c) PROVIDER OUTREACH EFFORTS; PUBLICATION OF FRAUD ALERTS.—

(1) SPECIAL FRAUD ALERTS.—

(A) IN GENERAL.—

(i) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Secretary to issue and publish a special fraud alert.

(ii) SPECIAL FRAUD ALERT DEFINED.—In this section, a ''special fraud alert'' is a notice which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act).

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—

(i) INVESTIGATION.—Upon receipt of a request for a special fraud alert under subparagraph (A), the Secretary shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Secretary (in consultation with the Attorney General) shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(ii) CRITERIA FOR ISSUANCE.—In determining whether to issue a special fraud alert upon a request under subparagraph (A), the Secretary may consider—

(I) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subparagraph (C); and

(II) the extent and frequency of the conduct that would be identified in the special fraud alert.

(C) CONSEQUENCES DESCRIBED.—The consequences described in this subparagraph are as follows:

(i) An increase or decrease in access to health care services.

(ii) An increase or decrease in the quality of health care services.

(iii) An increase or decrease in patient freedom of choice among health care providers.

(iv) An increase or decrease in competition among health care providers.

(v) An increase or decrease in the cost to health care programs of the Federal Government.

(vi) An increase or decrease in the potential overutilization of health care services.

(viii) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in health care programs of the Federal Government.

(2) PUBLICATION OF ALL HCFA FRAUD ALERTS IN FEDERAL REGISTER.—Each notice issued by the Health Care Financing Administration which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act) shall be published in the Federal Register, without regard to whether or not the notice is issued by a regional office of the Health Care Financing Administration.

SEC. 8402. BENEFICIARY INCENTIVES TO REPORT FRAUD AND ABUSE.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 8403. ELIMINATION OF HOME HEALTH OVERPAYMENTS.

(a) REQUIRING BILLING AND PAYMENT TO BE BASED ON SITE WHERE SERVICE FURNISHED.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

''(g) A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished during cost reporting periods beginning on or after October 1, 1995.

SEC. 8404. SKILLED NURSING FACILITIES.

(a) CLARIFICATION OF TREATMENT OF HOSPITAL TRANSFERS.—

(1) IN GENERAL.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

''(iii) In making adjustments under clause (i) for transfer cases, the Secretary shall treat as a transfer any transfer to a hospital (without regard to whether or not the hospital is a subsection (d) hospital), a unit thereof, or a skilled nursing facility.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1995.

(b) REQUIRING BILLING AND PAYMENT TO BE BASED ON SITE WHERE SERVICE FURNISHED.—Section 1819(b) (42 U.S.C. 1395i@3(b)) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULE FOR BILLING AND PAYMENT.—A skilled nursing facility shall submit claims for payment for services under this title (whether such services are billed under part A or part B) only on the basis of the geographic location at which the service is furnished.''.

SEC. 8405. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII, as amended by section 8231(d), is further amended by adding at the end the following new section:

''MEDICARE INTEGRITY PROGRAM

''SEC. 1894. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (hereafter in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

''(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

''(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

''(2) Audit of cost reports.

''(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

''(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

''(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

''(1) the entity has demonstrated capability to carry out such activities;

''(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation

and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

''(3) the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

''(4) the entity meets such other requirements as the Secretary may impose.

''(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary may by regulation establish, except that such procedures shall include the following:

''(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

''(2) The provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section, except that competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary.

''(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

''(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

''(f) TRANSFER OF AMOUNTS TO MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—For each fiscal year, the Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Medicare Anti-Fraud and Abuse Trust Fund under subsection (g) such amounts as are necessary to carry out the activities described in subsection (b). Such transfer shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.

''(g) MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—There is hereby established in the Treasury of the United States the Anti-Fraud and Abuse Trust Fund (hereafter in this subsection referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in subparagraph (B) and such amounts as may be deposited in the Trust Fund as provided in subsection (f), paragraph (3), and title XI.

''(B) AUTHORIZATION TO ACCEPT GIFTS AND BEQUESTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund or any activity financed through the Trust Fund.

''(2) INVESTMENT.—

''(A) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund in government account serial securities.

''(B) USE OF INCOME.—Any interest derived from investments under subparagraph (A) shall be credited to the Fund.

''(3) AMOUNTS DEPOSITED INTO TRUST FUND.—In addition to amounts transferred under subsection (f), there shall be deposited in the Trust Fund—

''(A) that portion of amounts recovered in relation to section 1128A arising out of a claim under title XVIII as remains after application of subsection (f)(2) (relating to repayment of the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund) of that section, as may be applicable,

''(B) fines imposed under section 1128B arising out of a claim under this title, and

''(C) penalties and damages imposed (other than funds awarded to a relator or for restitution) under sections 3729 through 3732 of title 31, United States Code (pertaining to false claims) in cases involving claims relating to programs under title XVIII, XIX, or XXI.

''(4) DIRECT APPROPRIATION OF FUNDS TO CARRY OUT PROGRAM.—

''(A) IN GENERAL.—There are appropriated from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under this section, subject to subparagraph (B).

''(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

''(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

''(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

''(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

''(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

''(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

''(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

''(vii) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

''(5) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Trust Fund in each fiscal year.''.

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

''(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.''.

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

''(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.''.

(c) CONFORMING AMENDMENT.—Section 1128A(f)(3) (42 U.S.C. 1320a–7a(f)(3)) is amended by striking ''as miscellaneous receipts of the Treasury of the United States'' and inserting ''in the Anti-Fraud and Abuse Trust Fund established under section 1895(g)''.

(d) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—Section 1894, as added by subsection (a), is amended by adding at the end the following new subsection:

''(h) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

''(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

''(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

''(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

''(B) Conducting investigations relating to the medicare program.

''(C) Performing financial and performance audits of programs and operations relating to the medicare program.

''(D) Performing inspections and other evaluations relating to the medicare program.

''(E) Conducting provider and consumer education activities regarding the requirements of this title.

''(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

''(A) For fiscal year 1996, such amount shall be $130,000,000.

''(B) For fiscal year 1997, such amount shall be $181,000,000.

''(C) For fiscal year 1998, such amount shall be $204,000,000.

''(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

''(4) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under paragraph (1) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.''.

SEC. 8406. FRAUD REDUCTION DEMONSTRATION PROJECT.

(a) IN GENERAL.—Not later than July 1, 1996, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish not less than three demonstration projects under which organizations with a contract under section 1816 or section 1842 of the Social Security Act—

(1) identify practitioners and providers whose patterns of providing care to beneficiaries enrolled under title XVIII of the Social Security Act are consistently outside the norm for other practitioners or providers of the same category, class, or type, and

(2) experiment with ways of identifying fraudulent claims submitted to the program established under such title before they are paid.

(b) DURATION OF PROJECTS.—Each project established under subsection (a) shall last for at least 18 months and shall focus on those categories, classes, or types of providers and practitioners that have been identified by the Inspector General of the Department of Health and Human Services as having a high incidence of fraud and abuse.

(c) REPORT.—Not later than July 1, 1997, the Secretary shall report to the Congress on the demonstration projects established under subsection (a), and shall include in the report an assessment of the effectiveness of,

and any recommended legislative changes based on, the projects.

SEC. 8407. REPORT ON COMPETITIVE PRICING.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall submit to Congress a report recommending legislative changes to the medicare program to enable the prices paid for items and services under the medicare program to be established on a more competitive basis.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

Subpart A—Rural Hospitals

SEC. 8501. SOLE COMMUNITY HOSPITALS.

(a) UPDATE.—Section 1886(b)(3)(B)(iv) (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(A) in subclause (III), by striking ''and'' at the end; and

(B) by striking subclause (IV) and inserting the following:

''(IV) for each of the fiscal years 1996 through 2000, the market basket percentage increase minus 1 percentage points, and

''(V) for fiscal year 2001 and each subsequent fiscal year, the applicable percentage increase under clause (i).''.

(b) STUDY OF IMPACT OF SOLE COMMUNITY HOSPITAL DESIGNATIONS.—

(1) STUDY.—The Medicare Payment Review Commission shall conduct a study of the impact of the designation of hospitals as sole community hospitals under the medicare program on the delivery of health care services to individuals in rural areas, and shall include in the study an analysis of the characteristics of the hospitals designated as such sole community hospitals under the program.

(2) REPORT.—Not later than 12 months after the date a majority of the members of the Commission are first appointed, the Commission shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 8502. CLARIFICATION OF TREATMENT OF EAC AND RPC HOSPITALS.

Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i@4(i)) are each amended by striking the semicolon at the end and inserting the following: '', or in a State which the Secretary finds would receive a grant under such subsection during a fiscal year if funds were appropriated for grants under such subsection for the fiscal year;''.

SEC. 8503. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

''(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

''(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

''(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

''(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

''(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

''(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

''(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

''(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

''(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

''(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

''(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

''(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

''(A) An appropriate medical screening examination (as described in section 1867(a)).

''(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).''.

(2) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking ''1861(mm)(1))'' and inserting ''1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))''.

(b) COVERAGE AND PAYMENT UNDER PART B.—

(1) COVERAGE UNDER PART B.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking ''and'' at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).''.

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)) is amended by striking ''services,'' and inserting ''services and rural emergency access care hospital services,''.

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(i) in the heading, by striking ''SERVICES'' and inserting ''SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES''; and

(ii) by adding at the end the following new sentence: ''The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

SEC. 8504. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

''(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.''.

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 8505. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) BUDGET-NEUTRALITY IN IMPLEMENTATION.—The Secretary of Health and Human Services shall make any adjustments required under subsection (a) in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year without such adjustments.

SEC. 8506. MEDICAL EDUCATION.

(a) STATE AND CONSORTIUM DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—

(A) PARTICIPATION OF STATES AND CONSORTIA.—The Secretary shall establish and conduct a demonstration project to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice under which the Secretary shall make payments in accordance with paragraph (4)—

(i) to not more than 10 States for the purpose of testing and evaluating mechanisms to meet the goals described in subsection (b); and

(ii) to not more than 10 health care training consortia for the purpose of testing and evaluating mechanisms to meet such goals.

(B) EXCLUSION OF CONSORTIA IN PARTICIPATING STATES.—A consortia may not receive payments under the demonstration project under subparagraph (A)(ii) if any of its members is located in a State receiving payments under the project under subparagraph (A)(i).

(2) APPLICATIONS.—

(A) IN GENERAL.—Each State and consortium desiring to conduct a demonstration project under this subsection shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require to assure that the State or consortium will meet the goals described in subsection (b). In the case of an application of a State, the application shall include—

(i) information demonstrating that the State has consulted with interested parties with respect to the project, including State medical associations, State hospital associations, and medical schools located in the State;

(ii) an assurance that no hospital conducting an approved medical residency training program in the State will lose more than 10 percent of such hospital's approved medical residency positions in any year as a result of the project; and

(iii) an explanation of a plan for evaluating the impact of the project in the State.

(B) APPROVAL OF APPLICATIONS.—A State or consortium that submits an application under subparagraph (A) may begin a demonstration project under this subsection—

(i) upon approval of such application by the Secretary; or

(ii) at the end of the 60-day period beginning on the date such application is submitted, unless the Secretary denies the application during such period.

(C) NOTICE AND COMMENT.—A State or consortium shall issue a public notice on the date it submits an application under subparagraph (A) which contains a general description of the proposed demonstration project. Any interested party may comment on the proposed demonstration project to the State or consortium or the Secretary during the 30-day period beginning on the date the public notice is issued.

(3) SPECIFIC REQUIREMENTS FOR PARTICIPANTS.—

(A) REQUIREMENTS FOR STATES.—Each State participating in the demonstration project under this section shall use the payments provided under paragraph (4) to test and evaluate either of the following mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice:

(i) USE OF ALTERNATIVE WEIGHTING FACTORS.—

(I) IN GENERAL.—The State may make payments to hospitals in the State for direct graduate medical education costs in amounts determined under the methodology provided under section 1886(h) of the Social Security Act, except that the State shall apply weighting factors that are different than the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(II) USE OF PAYMENTS FOR PRIMARY CARE RESIDENTS.—In applying different weighting factors under subclause (I), the State shall ensure that the amount of payment made to hospitals for costs attributable to primary care residents shall be greater than the amount that would have been paid to hospitals for costs attributable to such residents if the State had applied the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(ii) PAYMENTS FOR MEDICAL EDUCATION THROUGH CONSORTIUM.—The State may make payments for graduate medical education costs through payments to a health care training consortium (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium) that is established in the State but that is not otherwise participating in the demonstration project.

(B) REQUIREMENTS FOR CONSORTIUM.—

(i) IN GENERAL.—In the case of a consortium participating in the demonstration project under this section, the Secretary shall make payments for graduate medical education costs through a health care training consortium whose members provide medical residency training (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium).

(ii) USE OF PAYMENTS.—

(I) IN GENERAL.—Each consortium receiving payments under clause (i) shall use such funds to conduct activities which test and evaluate mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice, and may use such funds for the operation of the consortium.

(II) PAYMENTS TO PARTICIPATING PROGRAMS.—The consortium shall ensure that the majority of the payments received under clause (i) are directed to consortium members for primary care residency programs, and shall designate for each resident assigned to the consortium a hospital operating an approved medical residency training program for purposes of enabling the Secretary to calculate the consortium's payment amount under the project. Such hospital shall be the hospital where the resident receives the majority of the resident's hospital-based, nonambulatory training experience.

(4) ALLOCATION OF PORTION OF MEDICARE GME PAYMENTS FOR ACTIVITIES UNDER PROJECT.—Notwithstanding any provision of title XVIII of the Social Security Act, the following rules apply with respect to each State and each health care training consortium participating in the demonstration project established under this subsection during a year:

(A) In the case of a State—

(i) the Secretary shall reduce the amount of each payment made to hospitals in the State during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the State an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(B) In the case of a consortium—

(i) the Secretary shall reduce the amount of each payment made to hospitals who are members of the consortium during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the consortium an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(5) DURATION.—A demonstration project under this subsection shall be conducted for a period not to exceed 5 years. The Secretary may terminate a project if the Secretary determines that the State or consortium conducting the project is not in substantial compliance with the terms of the application approved by the Secretary.

(6) EVALUATIONS AND REPORTS.—

(A) EVALUATIONS.—Each State or consortium participating in the demonstration project shall submit to the Secretary a final evaluation within 360 days of the termination of the State or consortium's participation and such interim evaluations as the Secretary may require.

(B) REPORTS TO CONGRESS.—Not later than 360 days after the first demonstration project under this section begins, and annually thereafter for each year in which such a project is conducted, the Secretary shall submit a report to Congress which evaluates the effectiveness of the State and consortium activities conducted under such projects and includes any legislative recommendations determined appropriate by the Secretary.

(7) MAINTENANCE OF EFFORT.—Any funds available for the activities covered by a demonstration project under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

(b) GOALS FOR PROJECTS.—The goals referred to in this subsection for a State or consortium participating in the demonstration project under this section are as follows:

(1) The training of an equal number of physician and nonphysician primary care providers.

(2) The recruiting of residents for graduate medical education training programs who received a portion of undergraduate training in a rural area.

(3) The allocation of not less than 50 percent of the training spent in a graduate medical residency training program at sites at which acute care inpatient hospital services are not furnished.

(4) The rotation of residents in approved medical residency training programs among practices that serve residents of rural areas.

(5) The development of a plan under which, after a 5-year transition period, not less than 50 percent of the residents who begin an initial residency period in an approved medical residency training program shall be primary care residents.

(c) DEFINITIONS.—In this section:

(1) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term ''approved medical residency training program'' has the meaning given such term in section 1886(h)(5)(A) of the Social Security Act.

(2) HEALTH CARE TRAINING CONSORTIUM.—The term ''health care training consortium'' means a State, regional, or local entity consisting of at least one of each of the following:

(A) A hospital operating an approved medical residency training program at which residents receive training at ambulatory training sites located in rural areas.

(B) A school of medicine or osteopathic medicine.

(C) A school of allied health or a program for the training of physician assistants (as such terms are defined in section 799 of the Public Health Service Act).

(D) A school of nursing (as defined in section 853 of the Public Health Service Act).

(3) PRIMARY CARE.—The term ''primary care'' means family practice, general internal medicine, general pediatrics, and obstetrics and gynecology.

(4) RESIDENT.—The term ''resident'' has the meaning given such term in section 1886(h)(5)(H) of the Social Security Act.

(5) RURAL AREA.—The term ''rural area'' has the meaning given such term in section 1886(d)(2)(D) of the Social Security Act.

Subpart B—Rural Physicians and Other Providers

SEC. 8511. PROVIDER INCENTIVES.

(a) ADDITIONAL PAYMENTS UNDER MEDICARE FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.—

(1) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking ''10 percent'' and inserting ''20 percent''.

(2) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after ''physicians' services'' the following: ''consisting of primary care services (as defined in section 1842(i)(4))''.

(3) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(A) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking ''area,'' and inserting ''area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to physicians' services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1996.

(4) REQUIRING CARRIERS TO REPORT ON SERVICES PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following new subparagraph:

''(J) will provide information to the Secretary not later than 30 days after the end of the contract year on the types of providers to whom the carrier made additional payments during the year for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers during the year; and''.

(5) STUDY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study analyzing the effectiveness of the provision of additional payments under part B of the medicare program for physicians' services provided in health professional shortage areas in recruiting and retaining physicians to provide services in such areas.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subparagraph (A), and shall include in the report such recommendations as the Secretary considers appropriate.

(6) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (4) shall apply to physicians' services furnished on or after January 1, 1996.

(b) DEVELOPMENT OF MODEL STATE SCOPE OF PRACTICE LAW.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop and publish a model law that may be adopted by States to increase the access of individuals residing in underserved rural areas to health care services by expanding the services which non-physician health care professionals may provide in such areas.

(2) DEADLINE.—The Secretary shall publish the model law developed under paragraph (1) not later than 1 year after the date of the enactment of this Act.

SEC. 8512. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

''SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

''(a) GENERAL RULE.—Gross income shall not include any qualified loan repayment.

''(b) QUALIFIED LOAN REPAYMENT.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking ''Federal, State, or local'' and inserting ''State or local''.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

''Sec. 137. National Health Service Corps loan repayments.

''Sec. 138. Cross references to other Acts.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 8513. TELEMEDICINE PAYMENT METHODOLOGY.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

SEC. 8514. DEMONSTRATION PROJECT TO INCREASE CHOICE IN RURAL AREAS.

The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall conduct a demonstration project to assess the advantages and disadvantages of requiring Medicare Choice organizations under part C of title XVIII of the Social Security Act (as added by section 8002(a)) to market Medicare Choice products in certain underserved areas which are near the standard service area for such products.

PART 2—MEDICARE SUBVENTION

SEC. 8521. MEDICARE PROGRAM PAYMENTS FOR HEALTH CARE SERVICES PROVIDED IN THE MILITARY HEALTH SERVICES SYSTEM.

(a) PAYMENTS UNDER MEDICARE RISK CONTRACTS PROGRAM.—

(1) CURRENT PROGRAM.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

''(k) Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered an eligible organization under this section, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other eligible organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other eligible organizations with risk sharing contracts under this section.''.

(2) MEDICARE CHOICE PROGRAM.—Section 1855, as inserted by section 8002(a), by adding at the end the following new subsection:

''(h) PAYMENTS TO MILITARY PROGRAM.—Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered a Medicare Choice organization under this part, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other Medicare Choice organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other Medicare Choice organizations with contracts in effect under this part.''.

(b) TEMPORARY PROVISION FOR WAIVER OF PART B PREMIUM PENALTY.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

''(h) The premium increase required by subsection (b) shall not apply with respect to a person who is enrolled with a managed care plan that is established by the Secretary of Defense under chapter 55 of title 10, United States Code, and is recognized as an eligible organization pursuant to section 1855(h) or section 1876(k), if such person first enrolled in such plan prior to January 1, 1998.''.

(c) PAYMENTS UNDER PART A OF MEDICARE.—Section 1814(c) (42 U.S.C. 1395f(c)) is amended—

(1) by redesignating the current matter as paragraph (1); and

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

''(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.''.

(d) PAYMENTS UNDER PART B OF MEDICARE.—Section 1835(d) (42 U.S.C. 1395n(d)) is amended—

(1) by redesignating the current matter as paragraph (1); and

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

''(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.''.

(e) CONFORMING AMENDMENTS TO THE THIRD PARTY COLLECTION PROGRAM FOR MILITARY MEDICAL FACILITIES.—(1) Section 1095(d) of title 10, United States Code, is amended—

(A) by striking ''XVIII or''; and

(B) by striking ''1395'' and inserting ''1396''.

(2) Section 1095(h)(2) of such title is amended by inserting after ''includes'' the following: ''plans administered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

Subtitle G—Other Provisions

SEC. 8601. EXTENSION AND EXPANSION OF EXISTING SECONDARY PAYER REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking ''clause (iv)'' and inserting ''clause (iii)'',

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking ''1862(b)(1)(B)(iv)'' each place it appears and inserting ''1862(b)(1)(B)(iii)''.

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking ''12-month'' each place it appears and inserting ''24-month'', and

(2) by striking the second sentence.

SEC. 8602. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) IN GENERAL.—Section 1144 (42 U.S.C. 1320b–14) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking ''under—'' and all that follows through the end and inserting ''subparagraph (A) for purposes of carrying out this subsection.'', and

(B) in subparagraph (C)(i), by striking ''subparagraph (B)(i)'' and inserting ''subparagraph (B)''.

(2) MEDICAID.—Section 1902(a)(25)(A)(i) (42 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking ''including the use of'' and all that follows through ''any additional measures''.

(3) ERISA.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(4) DATA MATCHES.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) by adding ''; or'' at the end of clause (v),

(B) by striking ''or'' at the end of clause (vi), and

(C) by striking clause (vii).

SEC. 8603. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) COVERAGE.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of an approved device.

(b) CLARIFICATION OF PAYMENT AMOUNT.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device.

(c) DEFINITIONS.—In this section—

(1) the term ''approved device'' means a medical device which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term ''investigational device'' means a medical device (other than a device described in paragraph (1)) which is approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

SEC. 8604. ADDITIONAL EXCLUSION FROM COVERAGE.

(a) IN GENERAL.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking ''or'' at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting ''; or'', and

(3) by inserting after paragraph (15) the following new paragraph:

''(16) where such expenses are for items or services, or to assist in the purchase, in whole or in part, of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

SEC. 8605. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1996.

(b) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1997, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1997, shall be considered to be ''employment'' (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1997.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term ''medicare qualified State or local government employment'' means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting ''(1)'' after ''(g)'', and

(C) by adding at the end the following new paragraph:

''(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability.''

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking ''subparagraphs (B) and (C),'' and inserting ''subparagraph (B),''.

(2) Subparagraph (B) of section 210(p)(1) of the Social Security Act (42 U.S.C. 410(p)(1)) is amended by striking ''paragraphs (2) and (3).'' and inserting ''paragraph (2).''

(3) Section 218 of the Social Security Act (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after December 31, 1996.

Subtitle H—Monitoring Achievement of Medicare Reform Goals

SEC. 8701. ESTABLISHMENT OF BUDGETARY AND PROGRAM GOALS.

(a) IN GENERAL.—The Secretary shall establish program budgetary and program goals for the medicare program consistent with this section.

(b) BUDGETARY GOALS.—The budgetary goal is to restrict total outlays under the medicare program as follows:

(1) For fiscal year 1996, $173,500,000,000.

(2) For fiscal year 1997, $187,300,000,000.

(3) For fiscal year 1998, $200,800,000,000.

(4) For fiscal year 1999, $215,200,000,000.
(5) For fiscal year 2000, $220,500,000,000.
(6) For fiscal year 2001, $248,000,000,000.
(7) For fiscal year 2002, $267,100,000,000.

(c) PROGRAM GOALS.—The program goals shall be consistent with the following:

(1) There should be an equitable distribution of funds between per beneficiary spending on payments to Medicare Choice organizations under part C of the medicare program and on payments to providers on a fee-for-service basis under parts A and B of the program.

(2) Payments to Medicare Choice organizations should be established in a manner that promotes the availability of Medicare Choice products in all regions of the country and that permits such organizations to offer adequate coverage.

SEC. 8702. MEDICARE REFORM COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Medicare Reform Commission (in this section referred to as the ''Commission'').

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall examine how the medicare program has met the budgetary and program goals established under section 8701.

(2) PERIODIC REPORTS.—

(A) IN GENERAL.—The Commission shall issue a report on April 1, 1998, and on March 1 of every third subsequent year, on the status of the medicare program in relation to the budgetary and program goals specified in section 8601.

(B) CONTENTS.—Each report shall include the following information about the medicare program in the most recent fiscal year and projects for the succeeding 3 fiscal years:

(i) The actuarial value of the traditional medicare benefit package.

(ii) The projected rate of growth of outlays under the traditional medicare program.

(iii) The ability of Medicare Choice organizations to offer an adequate benefit package under part C of the medicare program.

(iv) The extent of Medicare Choice products made available to medicare beneficiaries in the different regions of the country.

(3) RECOMMENDATIONS.—

(A) IN GENERAL.—If a report under paragraph (2) finds that any of the following problems exists, the Commission shall include recommendations to respond to the problem:

(i) The actuarial value of the traditional medicare benefit package exceeds the payment rate under the Medicare Choice program.

(ii) The rate of growth of the traditional medicare program under parts A and B is projected to result in medicare outlays exceeding the outlay targets specified in section 8701.

(iii) The payments under the Medicare Choice program are not sufficient to allow contractors to provide an adequate benefit package.

(iv) The selection of Medicare Choice products are limited or not available in parts of the country.

(B) TYPES OF RECOMMENDATIONS.—The recommendations provided under subparagraph (A) may include—

(i) in response to the problem described in subparagraph (A)(ii), reduction in payments to providers under parts A and B or an increase in cost sharing by beneficiaries; and

(ii) in response to the problems described in subparagraphs (A)(iii) and (A)(iv), an adjustment to payment rates to Medicare Choice organizations.

Such recommendations may not include any change that is inconsistent with attaining the outlay targets specified under section 8701.

(4) PRESIDENTIAL RESPONSE.—If the Commission reports under this subsection that the goals established in section 8701 are not met (or projects that such goals will not be met during a 3-year period), the President shall submit to Congress, within 90 days after the date of submission of the report, specific legislative recommendations to correct the problem. Such recommendations may include those described in paragraph (3)(B) and may not include any change that is inconsistent with attaining the outlay targets specified under section 8701.

(5) CONGRESSIONAL CONSIDERATION.—

(A) IN GENERAL.—The President's recommendations submitted under paragraph (4) shall not apply unless a joint resolution (described in subparagraph (B)) approving such recommendations is enacted, in accordance with the provisions of subparagraph (C), before the end of the 60-day period beginning on the date on which a report containing such recommendations is submitted by the President under paragraph (4). For purposes of applying the preceding sentence and subparagraphs (B) and (C), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(B) JOINT RESOLUTION OF APPROVAL.—A joint resolution described in this subparagraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the report described in subparagraph (A) is submitted and—

(i) which does not have a preamble;

(ii) the matter after the resolving clause of which is as follows: ''That Congress approves the recommendations of the President under section 8702(b)(4) of the Medicare Preservation Act, as submitted by the President on _____.'', the blank space being filled in with the appropriate date; and

(iii) the title of which is as follows: ''Joint resolution approving Presidential recommendations submitted under section 8702(b)(4) of the Medicare Preservation Act, as submitted by the President on _____.'', the blank space being filled in with the appropriate date.

(C) PROCEDURES FOR CONSIDERATION OF RESOLUTION OF APPROVAL.—Subject to subparagraph (D), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in subparagraph (B) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(D) SPECIAL RULES.—For purposes of applying subparagraph (C) with respect to such provisions—

(i) any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on Ways and Means and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on Finance of the Senate; and

(ii) any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the President submits the recommendations under paragraph (4).

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 5 members appointed by the President, of which 4 of whom are appointed from a list (of at least 5 nominees) submitted by each of the following:

(A) The Speaker of the House of Representatives.

(B) The Minority Leader of the House of Representatives.

(C) The Majority Leader of the Senate.

(D) The Minority Leader of the Senate.

(2) TERM OF SERVICE.—Each member of the Commission shall serve for a term of 3 years. Members may be reappointed for additional terms.

(3) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(5) QUORUM.—A quorum shall consist of 3 members of the Commission, except that 2 members may conduct a hearing under subsection (e).

(6) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(7) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission. In particular, the Administrator of the Health Care Financing Administration and the Director of the Office of Management and Budget shall provide the Commission with access to data for the conduct of its work.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

Subtitle I—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

SEC. 8801. ESTABLISHMENT OF MEDICARE GROWTH REDUCTION TRUST FUND FOR PART B SAVINGS.

Part B of title XVIII is amended by inserting after section 1841 the following new section:

''MEDICARE GROWTH REDUCTION TRUST FUND

''SEC. 1841A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Medicare Growth Reduction Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts appropriated under paragraph (2).

''(2) There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the Secretary's estimate of the reductions in expenditures under this part that are attributable to the Medicare Preservation Act of 1995. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund.

''(3)(A) Subject to subparagraph (B), with respect to monies transferred to the Trust Fund, no transfers, authorizations of appropriations, or appropriations are permitted.

''(B) Beginning with fiscal year 2003, the Secretary may expend funds in the Trust Fund to carry out this title, but only to the extent provided by Congress in advance through a specific amendment to this section.

''(b) The provisions of subsections (b) through (e) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund, except that the Board of Trustees and Managing Trustee of the Trust Fund shall be composed of the members of the Board of Trustees and the Managing Trustee, respectively, of the Federal Supplementary Medical Insurance Trust Fund.''.

Subtitle J—Clinical Laboratories

SEC. 8901. EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.

Section 353(d) of the Public Health Service Act (42 U.S.C. 263a(d)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5) and by adding after paragraph (1) the following:

''(2) EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a clinical laboratory in a physician's office (including an office of a group of physicians) which is directed by a physician and in which examinations and procedures are either performed by a physician or by individuals supervised by a physician solely as an adjunct to other services provided by the physician's office is exempt from this section.

''(B) EXCEPTION.—A clinical laboratory described in subparagraph (A) is not exempt from this section when it performs a pap smear (Papanicolaou Smear) analysis.

''(C) DEFINITION.—For purposes of subparagraph (A), the term 'physician' has the same meaning as is prescribed for such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).'';

(2) in paragraph (3) (as so redesignated) by striking ''(3)'' and inserting ''(4)''; and

(3) in paragraphs (4) and (5) (as so redesignated) by striking ''(2)'' and inserting ''(3)''.

TITLE IX—WELFARE REFORM

SEC. 9000. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—Temporary Employment Assistance

SEC. 9101. STATE PLAN.

(a) IN GENERAL.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part A and inserting the following:

''PART A—TEMPORARY EMPLOYMENT ASSISTANCE

''SEC. 400. APPROPRIATION.

''For the purpose of providing assistance to families with needy children and assisting parents of children in such families to obtain and retain private sector work to the extent possible, and public sector or volunteer work if necessary, through the Work First Employment Block Grant program (hereafter in this title referred to as the 'Work First program'), there is hereby authorized to be appropriated, and is hereby appropriated, for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have approved State plans for temporary employment assistance.

''Subpart 1—State Plans for Temporary Employment Assistance

''SEC. 401. ELEMENTS OF STATE PLANS.

''A State plan for temporary employment assistance shall provide a description of the State program which carries out the purpose described in section 400 and shall meet the requirements of the following sections of this subpart.

''SEC. 402. FAMILY ELIGIBILITY FOR TEMPORARY EMPLOYMENT ASSISTANCE.

''(a) IN GENERAL.—The State plan shall provide that any family—

''(1) with 1 or more children (or any expectant family, at the option of the State), defined as needy by the State; and

''(2) which fulfills the conditions set forth in subsection (b),

shall be eligible for cash assistance under the plan, except as otherwise provided under this part.

''(b) INDIVIDUAL RESPONSIBILITY PLAN.—The State plan shall provide that not later than 30 days after the approval of the application for temporary employment assistance, a parent qualifying for assistance shall execute an individual responsibility plan as described in section 403. If a child otherwise eligible for assistance under this part is residing with a relative other than a parent, the State plan may require the relative to execute such a plan as a condition of the family receiving such assistance.

''(c) LIMITATIONS ON ELIGIBILITY.—

''(1) LENGTH OF TIME.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), (D), and (E), the State plan shall provide that the family of an individual who, after attaining age 18 years (or age 19 years, at the option of the State), has received assistance under the plan for 60 months, shall no longer be eligible for cash assistance under the plan.

''(B) HARDSHIP EXCEPTION.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which—

''(i) at the option of the State, the family includes an individual working 20 hours per week (or more, at the option of the State);

''(ii) the family resides in an area with an unemployment rate exceeding 8 percent; or

''(iii) the family is experiencing other special hardship circumstances which make it appropriate for the State to provide an exemption for such month, except that the total number of exemptions under this clause for any month shall not exceed 15 percent of the number of families to which the State is providing assistance under the plan.

''(C) EXCEPTION FOR TEEN PARENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which the parent—

''(i) is under age 18 (or age 19, at the option of the State); and

''(ii) is making satisfactory progress while attending high school or an alternative technical preparation school.

''(D) EXCEPTION FOR INDIVIDUALS EXEMPT FROM WORK REQUIREMENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which 1 or each of the parents—

''(i) is seriously ill, incapacitated, or of advanced age;

''(ii)(I) except for a child described in subclause (II), is responsible for a child under age 1 year (or age 6 months, at the option of the State), or

''(II) in the case of a 2nd or subsequent child born during such period, is responsible for a child under age 3 months;

''(iii) is pregnant in the 3rd trimester; or

''(iv) is caring for a family member who is ill or incapacitated.

''(E) EXCEPTION FOR CHILD-ONLY CASES.—With respect to any child who has not attained age 18 (or age 19, at the option of the State) and who is eligible for assistance under this part, but not as a member of a family otherwise eligible for assistance under this part (determined without regard to this paragraph), the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which such child has not attained such age.

''(F) OTHER PROGRAM ELIGIBILITY.—The State plan shall provide that if a family is no longer eligible for cash assistance under the plan due to the imposition of the 60-month period under subparagraph (A) or due to the imposition of a penalty under subparagraph (A)(ii) or (B)(ii) of section 403(e)(1)—

''(i) for purposes of determining eligibility for any other Federal or federally assisted program based on need, such family shall continue to be considered eligible for such cash assistance;

''(ii) for purposes of determining the amount of assistance under any other Federal or federally assisted program based on need, such family shall continue to be considered receiving such cash assistance; and

''(iii) the State may, at the option of the State, after having assessed the needs of the child or children of the family, provide for such needs with a voucher for such family—

''(I) determined on the same basis as the State would provide assistance under the State plan to such a family with 1 less individual,

''(II) designed appropriately to pay third parties for shelter, goods, and services received by the child or children, and

''(III) payable directly to such third parties.

''(2) TREATMENT OF INTERSTATE MIGRANTS.—The State plan may apply to a category of families the rules for such category under a plan of another State approved under this part, if a family in such category has moved to the State from the other State and has resided in the State for less than 12 months.

''(3) INDIVIDUALS ON OLD-AGE ASSISTANCE OR SSI INELIGIBLE FOR TEMPORARY EMPLOYMENT ASSISTANCE.—The State plan shall provide that no assistance shall be furnished any individual under the plan with respect to any period with respect to which such individual is receiving old-age assistance under the State plan approved under section 102 of title I or supplemental security income under title XVI.

''(4) CHILDREN FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.—A child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a needy child under this part, and such child's income and resources shall be disregarded in determining the eligibility of the family of such child for temporary employment assistance.

''(5) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—The State plan shall provide that no assistance will be furnished any individual under the plan during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits or services simultaneously from 2 or more States under programs that are funded under this part, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

''(6) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

''(A) IN GENERAL.—The State plan shall provide that no assistance will be furnished any individual under the plan for any period if during such period the State agency has knowledge that such individual is—

''(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

''(ii) violating a condition of probation or parole imposed under Federal or State law.

''(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, the State plan shall provide that the State shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of assistance under the plan, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

''(i) such recipient—

''(I) is described in clause (i) or (ii) of subparagraph (A); or

''(II) has information that is necessary for the officer to conduct the officer's official duties; and

''(ii) the location or apprehension of the recipient is within such officer's official duties.

''(d) DETERMINATION OF ELIGIBILITY.—

''(1) DETERMINATION OF NEED.—The State plan shall provide that the State agency take into consideration any income and resources of any individual the State determines should be considered in determining the need of the child or relative claiming temporary employment assistance, subject to section 407.

''(2) RESOURCE AND INCOME DETERMINATION.—In determining the total resources and income of the family of any needy child, the State plan shall provide the following:

''(A) RESOURCES.—The State's resource limit, including a description of the policy determined by the State regarding any exclusion allowed for vehicles owned by family members, resources set aside for future needs of a child, individual development accounts, or other policies established by the State to encourage savings.

''(B) FAMILY INCOME.—The extent to which earned or unearned income is disregarded in determining eligibility for, and amount of, assistance.

''(C) CHILD SUPPORT.—The State's policy, if any, for determining the extent to which child support received in excess of $50 per month on behalf of a member of the family is disregarded in determining eligibility for, and the amount of, assistance.

''(D) CHILD'S EARNINGS.—The treatment of earnings of a child living in the home.

''(E) EARNED INCOME TAX CREDIT.—The State agency shall disregard any refund of Federal income taxes made to a family receiving temporary employment assistance by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit).

''(3) VERIFICATION SYSTEM.—The State plan shall provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137.

''SEC. 403. INDIVIDUAL RESPONSIBILITY PLAN.

''(a) ASSESSMENT.—The State agency responsible for administering the State plan shall make an initial assessment of the skills, prior work experience, and employability of each applicant for, or recipient of, assistance under the State plan who—

''(1) has attained 18 years of age; or

''(2) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

''(b) INDIVIDUAL RESPONSIBILITY PLANS.—

''(1) IN GENERAL.—On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, shall develop an individual responsibility plan for the individual, which—

''(A) shall provide that participation by the individual in job search activities shall be a condition of eligibility for assistance under the State plan approved under part A, except during any period for which the individual is employed full-time in an unsubsidized job in the private sector;

''(B) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;

''(C) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;

''(D) may require that the individual enter the State program established under part F, if the caseworker determines that the individual will need education, training, job placement assistance, wage enhancement, or other services to become employed in the private sector;

''(E) shall provide that the individual must—

''(i) assign to the State any rights to support from any other person the individual may have in such individual's own behalf or in behalf of any other family member for whom the individual is applying for or receiving assistance; and

''(ii) cooperate with the State—

''(I) in establishing the paternity of a child born out of wedlock with respect to whom assistance is claimed, and

''(II) in obtaining support payments for the individual and for a child with respect to whom such assistance is claimed, or in obtaining any other payments or property due the individual or the child,

unless (in either case) the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf assistance is claimed.

''(F) to the greatest extent possible shall be designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;

''(G) shall describe what services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and

''(H) at the option of the State, may require the individual to undergo appropriate substance abuse treatment.

''(2) TIMING.—The State agency shall comply with paragraph (1) with respect to an individual—

''(A) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of assistance under the State plan approved under this part; or

''(B) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

''(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—The State shall inform all applicants for and recipients of assistance under the State plan approved under this part of all available services under the State plan for which they are eligible.

''(d) REQUIREMENT THAT RECIPIENTS ENTER THE WORK FIRST PROGRAM.—

''(1) IN GENERAL.—Beginning with fiscal year 2004, the State shall place recipients of assistance under the State plan approved under this part, who have not become employed in the private sector within 1 year after signing an individual responsibility plan, in the first available slot in the State program established under part F, except as provided in paragraph (2).

''(2) EXCEPTIONS.—A state may not be required to place a recipient of such assistance in the State program established under part F if the recipient—

''(A) is ill, incapacitated, or of advanced age;

''(B) has not attained 18 years of age;

''(C) is caring for a child or parent who is ill or incapacitated; or

''(D) is enrolled in school or in educational or training programs that will lead to private sector employment.

''(e) PENALTIES.—

''(1) STATE NOT OPERATING A WORK FIRST OR WORKFARE PROGRAM.—In the case of a State that is not operating a program under part F or G:

''(A) FAILURE TO COMPLY WITH INDIVIDUAL RESPONSIBILITY PLAN OR AGREEMENT OF MUTUAL RESPONSIBILITY.—

''(i) PROGRESSIVE REDUCTIONS IN ASSISTANCE FOR 1ST AND 2ND FAILURES.—The amount of assistance otherwise to be provided under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan (or, if the State has established a program under subpart 1 of part F and the individual is required to participate in the program, an agreement of mutual responsibility) signed by the individual (other than by reason of conduct described in paragraph (2)) shall be reduced by—

''(I) 33 percent for the 1st such act of noncompliance; or

''(II) 66 percent for the 2nd such act of noncompliance.

''(ii) DENIAL OF ASSISTANCE FOR 3RD FAILURE.—In the case of the 3rd such act of noncompliance, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

''(iii) ACTS OF NONCOMPLIANCE.—For purposes of this paragraph, a 1st act of noncompliance by an individual continues for more than 1 calendar month shall be considered a 2nd act of noncompliance, and a 2nd act of noncompliance that continues for more than 3 calendar months shall be considered a 3rd act of noncompliance.

''(B) DENIAL OF ASSISTANCE TO ADULTS REFUSING TO WORK, LOOK FOR WORK, OR ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—

''(i) REFUSAL TO WORK OR LOOK FOR WORK.—If an unemployed individual who has attained 18 years of age refuses to work or look for work—

''(I) in the case of the 1st such refusal, assistance under the State plan approved under this part shall not be payable with respect to the individual until the later of—

''(aa) a period of not less than 6 months after the date of the first such refusal; or

''(bb) the first date the individual agrees to work or look for work; or

''(II) in the case of the 2nd such refusal, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

''(ii) REFUSAL TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—If an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

''(2) OTHER STATES.—In the case of any other State, the State shall reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

''SEC. 404. PAYMENT OF ASSISTANCE.

''(a) STANDARDS OF ASSISTANCE.—The State plan shall specify standards of assistance, including—

''(1) the composition of the unit for which assistance will be provided;

''(2) a standard, expressed in money amounts, to be used in determining the need of applicants and recipients;

''(3) a standard, expressed in money amounts, to be used in determining the amount of the assistance payment; and

''(4) the methodology to be used in determining the payment amount received by assistance units.

''(b) LEVEL OF ASSISTANCE.—Except as otherwise provided in this title, the State plan shall provide that—

''(1) the determination of need and the amount of assistance for all applicants and recipients shall be made on an objective and equitable basis; and

''(2) families of similar composition with similar needs and circumstances shall be treated similarly.

''(c) CORRECTION OF PAYMENTS.—The State plan shall provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of assistance under such plan, including the request for Federal tax refund intercepts as provided under section 416.

''(d) OPTIONAL VOLUNTARY DIVERSION PROGRAM.—The State plan shall, at the option of the State, and in such part or parts of the State as the State may select, provide that—

''(1) upon the recommendation of the caseworker who is handling the case of a family eligible for assistance under the State plan, the State shall, in lieu of any other assistance under the State plan to the family during a time period of not more than 3 months, make a lump-sum payment to the family for the time period in an amount not to exceed—

''(A) the value of the monthly benefits that would otherwise be provided to the family under the State plan; multiplied by

''(B) the number of months in the time period;

''(2) a lump-sum payment pursuant to subparagraph (A) shall not be made more than once to any family; and

''(3) if, during a time period for which the State has made a lump-sum payment to a family pursuant to subparagraph (A), the family applies for and (but for the lump-sum payment) would be eligible under the State plan for a monthly benefit that is greater than the value of the monthly benefit which would have been provided to the family under the State plan at the time of the calculation of the lump sum payment, then, notwithstanding subparagraph (A), the State shall, for that part of the time period that remains after the family becomes eligible for the greater monthly benefit, provide monthly benefits to the family in an amount not to exceed—

''(A) the amount by which the value of the greater monthly benefit exceeds the value of the former monthly benefit, multiplied by the number of months in the time period; divided by

''(B) the whole number of months remaining in the time period.''.

''SEC. 405. OTHER PROGRAMS.

''(a) WORK FIRST PROGRAM; WORKFARE OR JOB PLACEMENT VOUCHER PROGRAM.—The State plan shall provide that the State has in effect and operation—

''(1) a work first program that meets the requirements of part F; and

''(2) a workfare program that meets the requirements of part G, or a job placement voucher program that meets the requirements of part H, but not both.

''(b) PROVISION OF POSITIONS AND VOUCHERS.—The State plan shall provide that the State shall provide a position in the workfare program established by the State under part G, or a job placement voucher under the job placement voucher program established by the State under part H to any individual who, by reason of section 487(b), is prohibited from participating in the work first program operated by the State, and shall not provide such a position or such a voucher to any other individual.

''(c) PROVISION OF CASE MANAGEMENT SERVICES.—The State plan shall provide that the State shall provide to participants in such programs such case management services as are necessary to ensure the integrated provision of benefits and services under such programs.

''(d) STATE CHILD SUPPORT AGENCY.—The State plan shall—

''(1) provide that the State has in effect a plan approved under part D and operates a child support program in substantial compliance with such plan;

''(2) provide that the State agency administering the plan approved under this part shall be responsible for assuring that—

''(A) the benefits and services provided under plans approved under this part and part D are furnished in an integrated manner, including coordination of intake procedures with the agency administering the plan approved under part D;

''(B) all applicants for, and recipients of, temporary employment assistance are encouraged, assisted, and required (as provided under section 403(b)(1)(E)(ii)) to cooperate in the establishment and enforcement of paternity and child support obligations and are notified about the services available under the State plan approved under part D; and

''(C) procedures require referral of paternity and child support enforcement cases to the agency administering the plan approved under part D not later than 10 days after the application for temporary employment assistance; and

''(3) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency established pursuant to part D of the furnishing of temporary employment assistance with respect to a child who has been deserted or abandoned by a parent (including a child born out-of-wedlock without regard to whether the paternity of such child has been established).

''(e) CHILD WELFARE SERVICES AND FOSTER CARE AND ADOPTION ASSISTANCE.—The State plan shall provide that the State has in effect—

''(1) a State plan for child welfare services approved under part B; and

''(2) a State plan for foster care and adoption assistance approved under part E,

and operates such plans in substantial compliance with the requirements of such parts.

''(f) REPORT OF CHILD ABUSE, ETC.—The State plan shall provide that the State agency will—

''(1) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving assistance under the State plan under circumstances which indicate that the child's health or welfare is threatened thereby; and

''(2) provide such information with respect to a situation described in paragraph (1) as the State agency may have.

''(g) AVAILABILITY OF ASSISTANCE IN RURAL AREAS OF STATE.—The State plan shall consider and address the needs of rural areas in the State to ensure that families in such areas receive assistance to become self-sufficient.

''(h) FAMILY PRESERVATION.—

''(1) IN GENERAL.—The State plan shall describe the efforts by the State to promote family preservation and stability, including efforts—

''(A) to encourage fathers to stay home and be a part of the family;

''(B) to keep families together to the extent possible; and

''(C) except to the extent provided in paragraph (2), to treat 2-parent families and 1-parent families equally with respect to eligibility for assistance.

''(2) MAINTENANCE OF TREATMENT.—The State may impose eligibility limitations relating specifically to 2-parent families to the extent such limitations are no more restrictive than such limitations in effect in the State plan in fiscal year 1995.

''SEC. 406. ADMINISTRATIVE REQUIREMENTS FOR STATE PLAN.

''(a) STATEWIDE PLAN.—The State plan shall be in effect in all political subdivisions of the State, and, if administered by the subdivisions, be mandatory upon such subdivisions. If such plan is not administered uniformly throughout the State, the plan shall describe the administrative variations.

''(b) SINGLE ADMINISTRATING AGENCY.—The State plan shall provide for the establishment or designation of a single State agency to administer the plan or supervise the administration of the plan.

''(c) FINANCIAL PARTICIPATION.—The State plan shall provide for financial participation by the State in the same manner and amount as such State participates under title XIX, except that with respect to the sums expended for the administration of the State plan, the percentage shall be 50 percent.

''(d) REASONABLE PROMPTNESS.—The State plan shall provide that all individuals wishing to make application for temporary employment assistance shall have opportunity to do so, and that such assistance be furnished with reasonable promptness to all eligible individuals.

''(e) AUTOMATED DATA PROCESSING SYSTEM.—The State plan shall, at the option of the State, provide for the establishment and operation of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan approved under this part, so as—

''(1) to control and account for—

''(A) all the factors in the total eligibility determination process under such plan for assistance, and

''(B) the costs, quality, and delivery of payments and services furnished to applicants for and recipients of assistance; and

''(2) to notify the appropriate officials for child support, food stamp, and social service programs, and the medical assistance program approved under title XIX, whenever a recipient becomes ineligible for such assistance or the amount of assistance provided to a recipient under the State plan is changed.

''(f) DISCLOSURE OF INFORMATION.—The State plan shall provide for safeguards which restrict the use or disclosure of information concerning applicants or recipients.

''(g) DETECTION OF FRAUD.—The State plan shall provide, in accordance with regulations issued by the Secretary, for appropriate measures to detect fraudulent applications for temporary employment assistance before the establishment of eligibility for such assistance.

''Subpart 2—Administrative Provisions

''SEC. 411. APPROVAL OF PLAN.

''(a) IN GENERAL.—The Secretary shall approve a State plan which fulfills the requirements under subpart 1 within 120 days of the submission of the plan by the State to the Secretary.

''(b) DEEMED APPROVAL.—If a State plan has not been rejected by the Secretary during the period specified in subsection (a), the plan shall be deemed to have been approved.

''SEC. 412. COMPLIANCE.

In the case of any State plan for temporary employment assistance which has been approved under section 411, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by subpart 1 to be included in the plan, the Secretary shall notify such State agency that further payments will not be made to the State (or in the Secretary's discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until the Secretary is so satisfied the Secretary shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

''SEC. 413. PAYMENTS TO STATES.

''(a) COMPUTATION OF AMOUNT.—Subject to section 412, from the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for temporary employment assistance, for each quarter, beginning with the quarter commencing October 1, 1996, an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State under such plan.

''(b) METHOD OF COMPUTATION AND PAYMENT.—The method of computing and paying such amounts shall be as follows:

''(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on—

''(A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived;

''(B) records showing the number of needy children in the State; and

''(C) such other information as the Secretary may find necessary.

''(2) The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services—

''(A) reduced or increased, as the case may be, by any sum by which the Secretary of Health and Human Services finds that the estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter;

''(B) reduced by a sum equivalent to the pro rata share to which the Federal Government is equitably entitled, as determined by the Secretary of Health and Human Services, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to temporary employment assistance furnished under the State plan; and

''(C) reduced by such amount as is necessary to provide the appropriate reimbursement to the Federal Government that the State is required to make under section 457 out of that portion of child support collections retained by the State pursuant to such section,

except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health and Human Services for such prior quarter.

''(c) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

''SEC. 414. QUALITY ASSURANCE, DATA COLLECTION, AND REPORTING SYSTEM.

''(a) QUALITY ASSURANCE.—

''(1) IN GENERAL.—Under the State plan, a quality assurance system shall be developed based upon a collaborative effort involving the Secretary, the State, the political subdivisions of the State, and assistance recipients, and shall include quantifiable program outcomes related to self sufficiency in the categories of welfare-to-work, payment accuracy, and child support.

''(2) MODIFICATIONS TO SYSTEM.—As deemed necessary, but not more often than every 2 years, the Secretary, in consultation with the State, the political subdivisions of the State, and assistance recipients, shall make appropriate changes in the design and administration of the quality assurance system, including changes in benchmarks, measures, and data collection or sampling procedures.

''(b) DATA COLLECTION AND REPORTING.—

''(1) IN GENERAL.—The State plan shall provide for a quarterly report to the Secretary regarding the data described in paragraphs (2) and (3) and such additional data needed for the quality assurance system. The data collection and reporting system under this subsection shall promote accountability, continuous improvement, and integrity in the State plans for temporary employment assistance and Work First.

''(2) DISAGGREGATED DATA.—The State shall collect the following data items on a monthly basis from disaggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

''(A) The age of adults and children (including pregnant women).

''(B) Marital or familial status of cases: married (2-parent family), widowed, divorced, separated, or never married; or child living with other adult relative.

''(C) The gender, race, educational attainment, work experience, disability status

(whether the individual is seriously ill, incapacitated, or caring for a disabled or incapacitated child) of adults.

''(D) The amount of cash assistance and the amount and reason for any reduction in such assistance. Any other data necessary to determine the timeliness and accuracy of benefits and welfare diversions.

''(E) Whether any member of the family receives benefits under any of the following:

''(i) Any housing program.

''(ii) The food stamp program under the Food Stamp Act of 1977.

''(iii) The Head Start programs carried out under the Head Start Act.

''(iv) Any job training program.

''(F) The number of months since the most recent application for assistance under the plan.

''(G) The total number of months for which assistance has been provided to the families under the plan.

''(H) The employment status, hours worked, and earnings of individuals while receiving assistance, whether the case was closed due to employment, and other data needed to meet the work performance rate.

''(I) Status in Work First and workfare, including the number of hours an individual participated and the component in which the individual participated.

''(J) The number of persons in the assistance unit and their relationship to the youngest child. Nonrecipients in the household and their relationship to the youngest child.

''(K) Citizenship status.

''(L) Shelter arrangement.

''(M) Unearned income (not including temporary employment assistance), such as child support, and assets.

''(N) The number of children who have a parent who is deceased, incapacitated, or unemployed.

''(O) Geographic location.

''(3) AGGREGATED DATA.—The State shall collect the following data items on a monthly basis from aggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

''(A) The number of adults receiving assistance.

''(B) The number of children receiving assistance.

''(C) The number of families receiving assistance.

''(D) The number of assistance units who had their grants reduced or terminated and the reason for the reduction or termination, including sanction, employment, and meeting the time limit for assistance).

''(E) The number of applications for assistance; the number approved and the number denied and the reason for denial.

''(4) LONGITUDINAL STUDIES.—The State shall submit selected data items for a cohort of individuals who are tracked over time. This longitudinal sample shall be used for selected data items described in paragraphs (2) and (3), as determined appropriate by the Secretary.

''(c) ADDITIONAL DATA.—The report required by subsection (b) for a fiscal year quarter shall also include the following:

''(1) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—A statement of—

''(A) the percentage of the Federal funds paid to the State under this part for the fiscal year quarter that are used to cover administrative costs or overhead; and

''(B) the total amount of State funds that are used to cover such costs or overhead.

''(2) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—A statement of the total amount expended by the State during the fiscal year quarter on programs for needy families, with the amount spent on the program under this part, and the purposes for which such amount was spent, separately stated.

''(3) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The number of noncustodial parents in the State who participated in work activities during the fiscal year quarter.

''(4) REPORT ON CHILD SUPPORT COLLECTED.—The total amount of child support collected by the State agency administering the State plan under part D on behalf of a family receiving assistance under this part.

''(5) REPORT ON CHILD CARE.—The total amount expended by the State for child care under this part, along with a description of the types of child care provided, such as child care provided in the case of a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, or in the case of a family that is not receiving assistance under this part but would be at risk of becoming eligible for such assistance if child care was not provided.

''(6) REPORT ON TRANSITIONAL SERVICES.—The total amount expended by the State for providing transitional services to a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, along with a description of such services.

''(d) COLLECTION PROCEDURES.—The Secretary shall provide case sampling plans and data collection procedures as deemed necessary to make statistically valid estimates of plan performance.

''(e) VERIFICATION.—The Secretary shall develop and implement procedures for verifying the quality of the data submitted by the State, and shall provide technical assistance, funded by the compliance penalties imposed under section 412, if such data quality falls below acceptable standards.

''SEC. 415. COMPILATION AND REPORTING OF DATA.

''(a) CURRENT PROGRAMS.—The Secretary shall, on the basis of the Secretary's review of the reports received from the States under section 414, compile such data as the Secretary believes necessary, and from time to time, publish the findings as to the effectiveness of the programs developed and administered by the States under this part. The Secretary shall annually report to the Congress on the programs developed and administered by each State under this part.

''(b) RESEARCH, DEMONSTRATION AND EVALUATION.—Of the amount specified under section 413(a), an amount equal to 0.25 percent is authorized to be expended by the Secretary to support the following types of research, demonstrations, and evaluations:

''(1) STATE-INITIATED RESEARCH.—States may apply for grants to cover 90 percent of the costs of self-evaluations of programs under State plans approved under this part.

''(2) DEMONSTRATIONS.—

''(A) IN GENERAL.—The Secretary may implement and evaluate demonstrations of innovative and promising strategies to—

''(i) improve child well-being through reductions in illegitimacy, teen pregnancy, welfare dependency, homelessness, and poverty;

''(ii) test promising strategies by nonprofit and for-profit institutions to increase employment, earning, child support payments, and self-sufficiency with respect to temporary employment assistance clients under State plans; and

''(iii) foster the development of child care.

''(B) ADDITIONAL PARAMETERS.—Demonstrations implemented under this paragraph—

''(i) may provide one-time capital funds to establish, expand, or replicate programs;

''(ii) may test performance-based grant to loan financing in which programs meeting performance targets receive grants while programs not meeting such targets repay funding on a pro-rated basis; and

''(iii) should test stategies in multiple States and types of communities.

''(3) FEDERAL EVALUATIONS.—

''(A) IN GENERAL.—The Secretary shall conduct research on the effects, benefits, and costs of different approaches to operating welfare programs, including an implementation study based on a representative sample of States and localities, documenting what policies were adopted, how such policies were implemented, the types and mix of services provided, and other such factors as the Secretary deems appropriate.

''(B) RESEARCH ON RELATED ISSUES.—The Secretary shall also conduct research on issues related to the purposes of this part, such as strategies for moving welfare recipients into the workforce quickly, reducing teen pregnancies and out-of-wedlock births, and providing adequate child care.

''(C) STATE REIMBURSEMENT.—The Secretary may reimburse a State for any research-related costs incurred pursuant to research conducted under this paragraph.

''(D) USE OF RANDOM ASSIGNMENT.—Evaluations authorized under this paragraph should use random assignment to the maximum extent feasible and appropriate.

''(4) REGIONAL INFORMATION CENTERS.—

''(A) IN GENERAL.—The Secretary shall establish not less than 5, nor more than 7 regional information centers located at major research universities or consortiums of universities to ensure the effective implementation of welfare reform and the efficient dissemination of information about innovations, evaluation outcomes, and training initiatives.

''(B) CENTER RESPONSIBILITIES.—The Centers shall have the following functions:

''(i) Disseminate information about effective income support and related programs, along with suggestions for the replication of such programs.

''(ii) Research the factors that cause and sustain welfare dependency and poverty in the regions served by the respective centers.

''(iii) Assist the States in the region formulate and implement innovative programs and improvements in existing programs that help clients move off welfare and become productive citizens.

''(iv) Provide training as appropriate to staff of State agencies to enhance the ability of the agencies to successfully place Work First clients in productive employment or self-employment.

''(C) CENTER ELIGIBILITY TO PERFORM EVALUATIONS.—The Centers may compete for demonstration and evaluation contracts developed under this section.

''SEC. 416. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

''(a) IN GENERAL.—Upon receiving notice from a State agency administering a plan approved under this part that a named individual has been overpaid under the State plan approved under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

''(b) REGULATIONS.—The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, that provide—

''(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

''(A) who are no longer receiving temporary employment assistance under the State plan approved under this part,

''(B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved; and

''(C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

''(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

''(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the specific provisions of this section, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.''.

(b) PAYMENTS TO PUERTO RICO.—Section 1108(a)(1) (42 U.S.C. 1308(a)(1)) is amended—

(1) in subparagraph (F), by striking ''or''; and

(2) by striking subparagraph (G) and inserting the following:

''(G) $82,000,000 with respect to each of fiscal years 1989 through 1995, or

''(H) $102,500,000 with respect to the fiscal year 1996 and each fiscal year thereafter;''.

(c) CONFORMING AMENDMENTS RELATING TO COLLECTION OF OVERPAYMENTS.—

(1) Section 6402 of the Internal Revenue Code of 1986 (relating to authority to make credits or refunds) is amended—

(A) in subsection (a), by striking ''(c) and (d)'' and inserting ''(c), (d), and (e)'';

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

''(g) COLLECTION OF OVERPAYMENTS UNDER TITLE IV–A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 416 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).''.

(2) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking ''section 464 or 1137 of the Social Security Act'' and inserting ''section 416, 464, or 1137 of the Social Security Act''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1996.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the requirements imposed by the amendment made by subsection (a), the State shall not be regarded as failing to comply with the requirements of such amendment before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

Subtitle B—Make Work Pay

SEC. 9201. TRANSITIONAL MEDICAID BENEFITS.

(a) STATE OPTION OF EXTENSION OF MEDICAID ENROLLMENT FOR FORMER AFDC RECIPIENTS FOR 1 ADDITIONAL YEAR.—

(1) IN GENERAL.—Section 1925(b)(1) (42 U.S.C. 1396r–6(b)(1)) is amended by striking the period at the end and inserting the following: '', and that the State may, at its option, offer to each such family the option of extending coverage under this subsection for any of the first 2 succeeding 6-month periods, in the same manner and under the same conditions as the option of extending coverage under this subsection for the first succeeding 6-month period.''.

(2) CONFORMING AMENDMENTS.—Section 1925(b) (42 U.S.C. 1396r–6(b)) is amended—

(A) in the heading, by striking ''EXTENSION'' and inserting ''EXTENSIONS'';

(B) in the heading of paragraph (1), by striking ''REQUIREMENT'' and inserting ''IN GENERAL'';

(C) in paragraph (2)(B)(ii)—

(i) in the heading, by striking ''PERIOD'' and inserting ''PERIODS'', and

(ii) by striking ''in the period'' and inserting ''in any of the 6-month periods'';

(D) in paragraph (3)(A), by striking ''the 6-month period'' and inserting ''any 6-month period'';

(E) in paragraph (4)(A), by striking ''the extension period'' and inserting ''any extension period''; and

(F) in paragraph (5)(D)(i), by striking ''is a 3-month period'' and all that follows and inserting the following: ''is, with respect to a particular 6-month additional extension period provided under this subsection, a 3-month period beginning with the 1st or 4th month of such extension period.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after October 1, 1997, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9202. NOTICE OF AVAILABILITY REQUIRED TO BE PROVIDED TO APPLICANTS AND FORMER RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE, FOOD STAMPS, AND MEDICAID.

(a) TEMPORARY FAMILY ASSISTANCE.—Section 406, as added by the amendment made by section 9101(a) of this Act, is amended by adding at the end the following:

''(h) NOTICE OF AVAILABILITY OF EITC.—The State plan shall provide that the State agency referred to in subsection (b) must provide written notice of the existence and availability of the earned income credit under section 32 of the Internal Revenue Code of 1986 to—

''(1) any individual who applies for assistance under the State plan, upon receipt of the application; and

''(2) any individual whose assistance under the State plan (or under the State plan approved under part A of this title (as in effect before the effective date of title IX of the Omnibus Budget Reconciliation Act of 1995) is terminated, in the notice of termination of benefits.''.

(b) FOOD STAMPS.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24) by striking ''and'' at the end;

(2) in paragraph (25) by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (25) the following:

''(26) that whenever a household applies for food stamp benefits, and whenever such benefits are terminated with respect to a household, the State agency shall provide to each member of such household notice of—

''(A) the existence of the earned income tax credit under section 32 of the Internal Revenue Code of 1986; and

''(B) the fact that such credit may be applicable to such member.''.

(c) MEDICAID.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking ''and'' at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting ''; and''; and

(3) by inserting after paragraph (62) the following new paragraph:

''(63) provide that the State shall provide notice of the existence and availability of the earned income tax credit under section 32 of the Internal Revenue Code of 1986 to each individual applying for medical assistance under the State plan and to each individual whose eligibility for medical assistance under the State plan is terminated.''.

SEC. 9203. NOTICE OF AVAILABILITY OF EARNED INCOME TAX CREDIT AND DEPENDENT CARE TAX CREDIT TO BE INCLUDED ON W–4 FORM.

(a) IN GENERAL.—Section 11114 of the Omnibus Budget Reconciliation Act of 1990 (26 U.S.C. 21 note), relating to program to increase public awareness, is amended by adding at the end the following new sentence: ''Such means shall include printing a notice of the availability of such credits on the forms used by employees to determine the proper number of withholding exemptions under chapter 24 of such Code.''

SEC. 9204. ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT THROUGH STATE DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Section 3507 of the Internal Revenue Code of 1986 (relating to the advance payment of the earned income tax credit) is amended by adding at the end the following:

''(g) STATE DEMONSTRATIONS.—

''(1) IN GENERAL.—In lieu of receiving earned income advance amounts from an employer under subsection (a), a participating resident shall receive advance earned income payments from a responsible State agency pursuant to a State Advance Payment Program that is designated pursuant to paragraph (2).

''(2) DESIGNATIONS.—

''(A) IN GENERAL.—From among the States submitting proposals satisfying the requirements of paragraph (3), the Secretary (in consultation with the Secretary of Health and Human Services) may designate not more than 4 State Advance Payment Demonstrations. States selected for the demonstrations may have, in the aggregate, no more than 5 percent of the total number of households participating in the program under the Food Stamp program in the immediately preceding fiscal year. Administrative costs of a State in conducting a demonstration under this section may be included for matching under section 413(a) of the Social Security Act and section 16(a) of the Food Stamp Act of 1977.

''(B) WHEN DESIGNATION MAY BE MADE.—Any designation under this paragraph shall be made no later than December 31, 1996.

''(C) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

''(i) IN GENERAL.—Designations made under this paragraph shall be effective for advance earned income payments made after December 31, 1996, and before January 1, 2000.

''(ii) SPECIAL RULES.—

''(I) REVOCATION OF DESIGNATIONS.—The Secretary may revoke any designation made under this paragraph if the Secretary determines that the State is not complying substantially with the proposal described in paragraph (3) submitted by the State.

''(II) AUTOMATIC TERMINATION OF DESIGNATIONS.—Any failure by a State to comply with the reporting requirements described in paragraphs (3)(F) and (3)(G) shall have the effect of immediately terminating the designation under this paragraph and rendering paragraph (5)(A)(ii) inapplicable to subsequent payments.

''(3) PROPOSALS.—No State may be designated under paragraph (2) unless the State's proposal for such designation—

''(A) identifies the responsible State agency,

''(B) describes how and when the advance earned income payments will be made by that agency, including a description of any other State or Federal benefits with which such payments will be coordinated,

''(C) describes how the State will obtain the information on which the amount of advance earned income payments made to each participating resident will be determined in accordance with paragraph (4),

''(D) describes how State residents who will be eligible to receive advance earned income payments will be selected, notified of the opportunity to receive advance earned income payments from the responsible State agency, and given the opportunity to elect to participate in the program,

''(E) describes how the State will verify, in addition to receiving the certifications and statement described in paragraph (7)(D)(iv), the eligibility of participating residents for the earned income tax credit,

''(F) commits the State to furnishing to each participating resident by January 31 of each year a written statement showing—

''(i) the name and taxpayer identification number of the participating resident, and

''(ii) the total amount of advance earned income payments made to the participating resident during the prior calendar year,

''(G) commits the State to furnishing to the Secretary by December 1 of each year a written statement showing the name and taxpayer identification number of each participating resident,

''(H) commits the State to treat any advance earned income payments as described in paragraph (5) and any repayments of excessive advance earned income payments as described in paragraph (6),

''(I) commits the State to assess the development and implementation of its State Advance Payment Program, including an agreement to share its findings and lessons with other interested States in a manner to be described by the Secretary, and

''(J) is submitted to the Secretary on or before June 30, 1996.

''(4) AMOUNT AND TIMING OF ADVANCE EARNED INCOME PAYMENTS.—

''(A) AMOUNT.—

''(i) IN GENERAL.—The method for determining the amount of advance earned income payments made to each participating resident shall conform to the fullest extent possible with the provisions of subsection (c).

''(ii) SPECIAL RULE.—A State may, at its election, apply the rules of subsection (c)(2)(B) by substituting 'between 60 percent and 75 percent of the credit percentage in effect under section 32(b)(1) for an individual with the corresponding number of qualifying children' for '60 percent of the credit percentage in effect under section 32(b)(1) for such an eligible individual with 1 qualifying child' in clause (i) and 'the same percentage (as applied in clause (i))' for '60 percent' in clause (ii).

''(B) TIMING.—The frequency of advance earned income payments may be determined on the basis of the payroll periods of participating residents, on a single statewide schedule, or on any other reasonable basis prescribed by the State in its proposal; however, in no event may advance earned income payments be made to any participating resident less frequently than on a calendar-quarter basis.

''(5) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

''(A) IN GENERAL.—For purposes of this title, advance earned income payments during any calendar quarter—

''(i) shall neither be treated as a payment of compensation nor be included in gross income, and

''(ii) shall be treated as made out of—

''(I) amounts required to be deducted by the State and withheld for the calendar quarter by the State under section 3401 (relating to wage withholding),

''(II) amounts required to be deducted for the calendar quarter under section 3102 (relating to FICA employee taxes), and

''(III) amounts of the taxes imposed on the State for the calendar quarter under section 3111 (relating to FICA employer taxes),

as if the State had paid to the Secretary, on the day on which payments are made to participating residents, an amount equal to such payments.

''(B) IF ADVANCE PAYMENTS EXCEED TAXES DUE.—If for any calendar quarter the aggregate amount of advance earned income payments made by the responsible State agency under a State Advance Payment Program exceeds the sum of the amounts referred to in subparagraph (A)(ii) (without regard to paragraph (6)(A)), each such advance earned income payment shall be reduced by an amount which bears the same ratio to such excess as such advance earned income payment bears to the aggregate amount of all such advance earned income payments.

''(6) STATE REPAYMENT OF EXCESSIVE ADVANCE EARNED INCOME PAYMENTS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of an excessive advance earned income payment a State shall be treated as having deducted and withheld under section 3401 (relating to wage withholding), and as being required to pay to the United States, the repayment amount during the repayment calendar quarter.

''(B) EXCESSIVE ADVANCE EARNED INCOME PAYMENT.—For purposes of this section, the term 'excessive advance income payment' means that portion of any advance earned income payment that, when combined with other advance earned income payments previously made to the same participating resident during the same calendar year, exceeds the amount of earned income tax credit to which that participating resident is entitled under section 32 for that year.

''(C) REPAYMENT AMOUNT.—For purposes of this subsection, the term 'repayment amount' means an amount equal to 50 percent of the excess of—

''(i) excessive advance earned income payments made by a State during a particular calendar year, over

''(ii) the sum of—

''(I) 4 percent of all advance earned income payments made by the State during that calendar year, and

''(II) the excessive advance earned income payments made by the State during that calendar year that have been collected from participating residents by the Secretary.

''(D) REPAYMENT CALENDAR QUARTER.—For purposes of this subsection, the term 'repayment calendar quarter' means the second calendar quarter of the third calendar year beginning after the calendar year in which an excessive earned income payment is made.

''(7) DEFINITIONS.—For purposes of this subsection—

''(A) STATE ADVANCE PAYMENT PROGRAM.—The term 'State Advance Payment Program' means the program described in a proposal submitted for designation under paragraph (1) and designated by the Secretary under paragraph (2).

''(B) RESPONSIBLE STATE AGENCY.—The term 'responsible State agency' means the single State agency that will be making the advance earned income payments to residents of the State who elect to participate in a State Advance Payment Program.

''(C) ADVANCE EARNED INCOME PAYMENTS.—The term 'advance earned income payments' means an amount paid by a responsible State agency to residents of the State pursuant to a State Advance Payment Program.

''(D) PARTICIPATING RESIDENT.—The term 'participating resident' means an individual who—

''(i) is a resident of a State that has in effect a designated State Advance Payment Program,

''(ii) makes the election described in paragraph (3)(D) pursuant to guidelines prescribed by the State,

''(iii) certifies to the State the number of qualifying children the individual has, and

''(iv) provides to the State the certifications and statement described in subsections (b)(1), (b)(2), (b)(3), and (b)(4) (except that for purposes of this clause, the term 'any employer' shall be substituted for 'another employer' in subsection (b)(3)), along with any other information required by the State.''.

(b) TECHNICAL ASSISTANCE.—The Secretaries of the Treasury and Health and Human Services shall jointly ensure that technical assistance is provided to State Advance Payment Programs and that these programs are rigorously evaluated.

(c) ANNUAL REPORTS.—The Secretary shall issue annual reports detailing the extent to which—

(1) residents participate in the State Advance Payment Programs,

(2) participating residents file Federal and State tax returns,

(3) participating residents report accurately the amount of the advance earned income payments made to them by the responsible State agency during the year, and

(4) recipients of excessive advance earned income payments repay those amounts.

The report shall also contain an estimate of the amount of advance earned income payments made by each responsible State agency but not reported on the tax returns of a participating resident and the amount of excessive advance earned income payments.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing technical assistance described in subsection (b), preparing the reports described in subsection (c), and providing grants to States in support of designated State Advance Payment Programs, there are authorized to be appropriated in advance to the Secretary of the Treasury and the Secretary of Health and Human Services a total of $1,400,000 for fiscal years 1997 through 2000.

SEC. 9205. FUNDING OF CHILD CARE SERVICES.

(a) REPEAL OF CHILD CARE PROGRAMS UNDER THE CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF1990.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is hereby repealed.

(b) FUNDING OF CHILD CARE SERVICES THROUGH SOCIAL SERVICES BLOCK GRANT PROGRAM.—Title XX (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

''SEC. 2008. CHILD CARE.

''(a) CONDITIONAL GRANT.—

''(1) IN GENERAL.—In addition to any payment under section 2002 or 2007, the Secretary shall make a grant to each State with a plan approved under this section for a fiscal year in an amount equal to the special allotment of the State for the fiscal year.

''(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there are authorized to be appropriated to the Secretary not more than—

''(A) $1,400,000,000 for fiscal year 1997;

''(B) $1,450,000,000 for each of fiscal years 1998, 1999, and 2000; and

''(C) $1,500,000,000 for each of fiscal years 2001 and 2002.

''(b) STATE PLANS.—

''(1) CONTENT.—A plan meets the requirements of this paragraph if the plan—

''(A) identifies an appropriate State agency to be the lead agency responsible for administering at the State level, and coordinating with local governments, the activities of the State pursuant to this section;

''(B) describes the activities the State will carry out with funds provided under this section;

''(C) provides assurances that the funds provided under this section will be used to supplement, not supplant, State and local funds as well as Federal funds provided under any Act and applied to child care activities in the State during fiscal year 1989;

''(D) provides assurances that the State will not expend more than 7 percent of the funds provided to the States under this section for the fiscal year for administrative expenses;

''(E) provides assurances that, in providing child care assistance, the State will give priority to families with low income and families living in a low-income geographical area;

''(F) ensures that child care providers reimbursed under this section meet applicable standards of State and local law;

''(G) provides assurances that the lead agency will coordinate the use of funds provided under this section with the use of other Federal resources for child care provided under this Act, and with other Federal, State, or local child care and preschool programs operated in the State;

''(H) provides for the establishment of such fiscal and accounting procedures as may be necessary to—

''(i) ensure a proper accounting of Federal funds received by the State under this section; and

''(ii) ensure the proper verification of the reports submitted by the State under subsection (f)(2);

''(I) provides assurances that the State will not impose more stringent standards and licensing or regulatory requirements on child care providers receiving funds provided under this section than those imposed on other child care providers in the State;

''(J) provides assurances that the State will not implement any policy or practice which has the effect of significantly restricting parental choice by—

''(i) expressly or effectively excluding any category of care or type of provider within a category of care;

''(ii) limiting parental access to or choices from among various categories of care or types of providers; or

''(iii) excluding a significant number of providers in any category of care; and

''(K) provides assurances that parents will be informed regarding their options under this section, including the option of receiving a child care certificate or voucher.

''(2) FORM.—A State may submit a plan that meets the requirements of paragraph (1) in the form of amendments to the State plan submitted pursuant to section 658E of the Child Care and Development Block Grant Act of 1990, as in effect before the effective date of section 9205 of the Omnibus Budget Reconciliation Act of 1995.

''(3) APPROVAL.—Not later than 90 days after the date the State submits a plan to the Secretary under this subsection, the Secretary shall either approve or disapprove the plan. If the Secretary disapproves the plan, the Secretary shall provide the State with an explanation and recommendations for changes in the plan to gain approval.

''(c) SPECIAL ALLOTMENTS.—The special allotment of a State for a fiscal year equals the amount that bears the same ratio to the amount appropriated pursuant to this section for the fiscal year, as the number of children who have not attained 13 years of age and are residing with families in the State bears to the total number of such children in all States with plans approved under this section for the fiscal year, determined on the basis of the most recent data available from the Department of Commerce at the time the special allotment is determined.

''(d) PAYMENTS TO STATES.—

''(1) PAYMENTS.—

''(A) COMPUTATION OF AMOUNT.—From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this section for a fiscal year, for each quarter, beginning with the quarter commencing October 1, 1996, an amount equal to ¼ of the special allotment of the State for the fiscal year.

''(B) METHOD OF COMPUTATION AND PAYMENT.—The method of computing and paying such amounts shall be as follows:

''(i) ESTIMATE.—The Secretary shall, before each quarter, estimate the amount to be paid to the State for the quarter under this section, based on a report filed by the State containing the State's estimate of the total sum to be expended by the State in such quarter in accordance with subsection (e).

''(ii) CERTIFICATION.—The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services reduced or increased, as the case may be, by any sum by which the Secretary of Health and Human Services finds that the estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health and Human Services for such prior quarter.

''(iii) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

''(2) DEADLINE FOR EXPENDITURE OF FUNDS BY STATES.—Except as provided in paragraph (3)(A), each State to which funds are paid under this section for a fiscal year shall expend such funds in the fiscal year or in the immediately succeeding fiscal year.

''(3) REDISTRIBUTION OF UNEXPENDED SPECIAL ALLOTMENTS.—

''(A) REMITTANCE TO THE SECRETARY.—Each State to which funds are paid under this section for a fiscal year shall remit to the Secretary that part of such funds which the State intends not to, or does not, expend in the fiscal year or in the immediately succeeding fiscal year.

''(B) REDISTRIBUTION.—The Secretary shall increase the special allotment of each State with a plan approved under this part for a fiscal year that does not remit any amount to the Secretary for the fiscal year by an amount equal to—

''(i) the aggregate of the amounts remitted pursuant to subparagraph (A) for the fiscal year; multiplied by

''(ii) the adjusted State share for the fiscal year.

''(C) ADJUSTED STATE SHARE.—As used in subparagraph (B)(ii), the term 'adjusted State share' means, with respect to a fiscal year—

''(i) the special allotment of the State for the fiscal year (before any increase under subparagraph (B)); divided by

''(ii)(I) the sum of the special allotments of all States with plans approved under this part for the fiscal year; minus

''(II) the aggregate of the amounts remitted to the Secretary pursuant to subparagraph (A) for the fiscal year.

''(e) USE OF FUNDS.—

''(1) IN GENERAL.—Funds provided under this section shall be used to expand parent choices in selecting child care, to address deficiencies in the supply of child care, and to expand and improve child care services, with an emphasis on providing such services to low-income families and geographical areas. Subject to the approval of the Secretary, States to which funds are paid under this section shall use such funds to carry out child care programs and activities through cash grants, certificates, or contracts with families, or public or private entities as the State determines appropriate. States shall take parental preference into account to the maximum extent possible in carrying out child care programs.

''(2) SPECIFIC USES.—Each State to which funds are paid under this section may expend such funds for—

''(A) child care services for infants, sick children, children with special needs, and children of adolescent parents;

''(B) after-school and before-school programs and programs during nontraditional hours for the children of working parents;

''(C) programs for the recruitment and training of day care workers, including older Americans;

''(D) grant and loan programs to enable child care workers and providers to meet State and local standards and requirements;

''(E) child care programs developed by public and private sector partnerships;

''(F) State efforts to provide technical assistance designed to help providers improve the services offered to parents and children; and

''(G) other child care-related programs consistent with the purpose of this section and approved by the Secretary.

''(3) LIMITATIONS ON USE OF FUNDS.—A State to which funds are paid under this section for a fiscal year shall use not less than 80 percent of such funds to provide direct child care assistance to low-income parents through child care certificates or vouchers, contracts, or grants.

''(4) METHODS OF FUNDING.—Funds for child care services under this title shall be for the benefit of parents and shall be provided through child care vouchers or certificates provided directly to parents or through contracts or grants with public or private providers.

''(5) PARENTAL RIGHTS OF CHOICE.—Any parent who receives a child care certificate under this title may use such certificate with any child care provider, including those providers which have religious activities, if such provider is freely chosen by the parent from among the available alternatives.

''(6) CHILD CARE CERTIFICATES.—

''(A) IN GENERAL.—For purposes of this title, a child care certificate is a certificate issued by a State directly to a parent or legal guardian for use only as payment for child care services in any child care facility eligible to receive funds under this Act.

''(B) REDEMPTION.—If the demand for child care services of families qualified to receive

such services from a State under this Act exceeds the available supply of such services, the State shall ration assistance to obtain such services using procedures that do not disadvantage parents using child care certificates, relative to other methods of financing, in either the waiting period or the pecuniary value of such services.

''(C) COMMENCEMENT OF CERTIFICATE PROGRAM.—Beginning not later than 1 year after the date of the enactment of this section, each State that receives funds under this title shall offer a child care certificate program in accordance with this section.

''(D) AUTHORITY TO USE CHILD CARE FUNDS FOR CERTIFICATE PROGRAM.—Each State to which funds are paid under this title may use the funds provided to the State under this title which are required to be used for child care activities to plan and establish the State's child care certificate program.

''(7) OPTION OF RECEIVING A CHILD CARE CERTIFICATE.—Each parent or legal guardian who receives assistance pursuant to this title shall be provided with the option of enrolling their child with an eligible child care provider that receives funds through grants, contracts, or child care certificates provided under this title. Such parent shall have the right to use such certificates to purchase child care services from an eligible provider of their choice. The State shall ensure that parental preference is considered to the maximum extent possible in awarding grants or contracts.

''(8) RIGHTS OF RELIGIOUS CHILD CARE PROVIDERS.—Notwithstanding any other provision of law, a religious child care provider who receives funds under this Act may require adherence by employees to the religious tenets or teachings of the provider.

''(9) ELIGIBLE CHILD CARE PROVIDERS.—Any child care provider who meets applicable standards of State and local law shall be eligible to receive funds under this section. As used in this paragraph, the term 'child care provider' includes—

''(A) proprietary for-profit entities, relatives, informal day care homes, religious child care providers, day care centers, and any other entities that the State determines appropriate subject to approval of the Secretary;

''(B) nonprofit organizations under subsections (c) and (d) of section 501 of the Internal Revenue Code of 1986;

''(C) professional or employee associations;

''(D) consortia of small businesses; and

''(E) units of State and local governments, and elementary, secondary, and post-secondary educational institutions.

''(10) PROHIBITED USES.—Any State to which funds are paid under this section may not use such funds—

''(A) to satisfy any State matching requirement imposed under any Federal grant;

''(B) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility; or

''(C) to provide any service which the State makes generally available to the residents of the State without cost to such residents and without regard to the income of such residents.

''(f) REPORTING REQUIREMENTS.—

''(1) NOTICE TO SECRETARY OF UNEXPENDED FUNDS.—Each State which has not completely expended the funds paid to the State under this section for a fiscal year in the fiscal year or the immediately succeeding fiscal year shall notify the Secretary of any amount not so expended.

''(2) STATE REPORTS ON USE OF FUNDS.—Not later than 18 months after the date of the enactment of this section, and each year thereafter, the State shall prepare and submit to the Secretary, in such form as the Secretary shall prescribe, a report describing the State's use of funds paid to the State under this section, including—

''(A) the number, type, and distribution of services and programs under this section;

''(B) the average cost of child care, by type of provider;

''(C) the number of children serviced under this section;

''(D) the average income and distribution of incomes of the families being served;

''(E) efforts undertaken by the State pursuant to this section to promote and ensure health and safety and improve quality; and

''(F) such other information as the Secretary considers appropriate.

''(3) GUIDELINES FOR STATE REPORTS; COORDINATION WITH REPORTS UNDER SECTION 2006.—Within 6 months after the date of the enactment of this section, the Secretary shall establish guidelines for State reports under paragraph (2). To the extent feasible, the Secretary shall coordinate such reporting requirement with the reports required under section 2006 and, as the Secretary deems appropriate, with other reporting requirements placed on States as a condition of receipt of other Federal funds which support child care.

''(4) REPORTS BY THE SECRETARY.—

''(A) REPORTS TO THE CONGRESS OF SUMMARY OF STATE REPORTS.—The Secretary shall annually summarize the information reported to the Secretary pursuant to paragraph (2) and provide such summary to the Congress.

''(B) REPORTS TO THE STATES ON EFFECTIVE PRACTICES.—The Secretary shall annually provide the States with a report on particularly effective practices and programs supported by funds paid to the State under this section, which ensure the health and safety of children in care, promote quality child care, and provide training to all types of providers.

''(g) ADMINISTRATION AND ENFORCEMENT.—

''(1) ADMINISTRATION.—The Secretary shall—

''(A) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;

''(B) collect, publish, and make available to the public a listing of State child care standards at least once every 3 years; and

''(C) provide technical assistance to assist States to carry out this section, including assistance on a reimbursable basis.

''(2) ENFORCEMENT.—

''(A) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the plans approved under this section for the State, and shall have the power to terminate payments to the State in accordance with subparagraph (B).

''(B) NONCOMPLIANCE.—

''(i) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

''(I) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under this section for the State; or

''(II) in the operation of any program for which assistance is provided under this section there is a failure by the State to comply substantially with any provision of this section;

the Secretary shall notify the State of the findings and that no further payments may be made to such State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

''(ii) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to clause (i), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose the other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section, and disqualification from the receipt of financial assistance under this section.

''(iii) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under clause (ii).

''(C) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

''(i) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this section; and

''(ii) imposing sanctions under this subsection.

''SEC. 2009. CHILD CARE DURING PARTICIPATION IN EMPLOYMENT, EDUCATION, AND TRAINING; EXTENDED ELIGIBILITY.

''(a) CHILD CARE GUARANTEE.—

''(1) IN GENERAL.—Each State agency referred to in section 2008(b)(1)(A) shall guarantee child care in accordance with section 2008—

''(A) for any individual who is participating in an education or training activity (including participation in a program established under part G of title IV) if the State agency approves the activity and determines that the individual is participating satisfactorily in the activity;

''(B) for each family with a dependent child (as defined in section 413(a)(2)(E)) requiring such care to the extent that such care is determined by the State agency to be necessary for an individual in the family to accept employment or remain employed, including in a community service job under part G of title IV; and

''(C) to the extent that the State agency determines that such care is necessary for the employment of an individual, if the family of which the individual is a member has ceased to receive assistance under the State plan approved under part A of title IV by reason of increased hours of, or income from, such employment, subject to paragraph (2) of this subsection.

''(2) LIMITATIONS ON ELIGIBILITY FOR TRANSITIONAL CHILD CARE.—A family shall not be eligible for child care under paragraph (1)(C)—

''(A) for more than 12 months after the last month for which the family received assistance described in such paragraph;

''(B) if the family did not receive such assistance in at least 3 of the most recent 6 months in which the family received such assistance;

''(C) if the family does not include a child who is (or, if needy, would be) a dependent child (within the meaning of section 413(a)(2)(E));

''(D) for any month beginning after the caretaker relative (within the meaning of such part) in the family has terminated his or her employment without good cause; or

''(E) with respect to a child, for any month beginning after the caretaker relative in the family has refused to cooperate with the State in establishing or enforcing the obligation of any parent of the child to provide support for the child, without good cause as

determined by the State agency in accordance with standards prescribed by the Secretary which shall take into consideration the best interests of the child.

''(b) STATE ENTITLEMENT TO PAYMENTS.—Each State with a plan approved under section 2008 shall be entitled to receive from the Secretary for any fiscal year an amount equal to—

''(1) the total amount expended by the State to carry out subsection (a) during the fiscal year; multiplied by

''(2) the Federal medical assistance percentage (as defined in the last sentence of section 1118).''.

(c) EFFECTIVE DATE.—The amendments and repeals made by this section shall take effect on October 1, 1996.

SEC. 9206. CERTAIN FEDERAL ASSISTANCE INCLUDIBLE IN GROSS INCOME.

(a) IN GENERAL.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. CERTAIN FEDERAL ASSISTANCE.

''(a) IN GENERAL.—Gross income shall include an amount equal to the specified Federal assistance received by the taxpayer during the taxable year.

''(b) SPECIFIED FEDERAL ASSISTANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'specified Federal assistance' means—

''(A) assistance provided under a State plan approved under part A of title IV of the Social Security Act (relating to temporary employment assistance program),

''(B) assistance provided under any food stamp program, and

''(C) supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93-66).

''(2) SPECIAL RULE.—In the case of assistance provided under a program described in subsection (d)(2), such term shall include only the assistance required to be provided under section 21 or 22 (as the case may be) of the Food Stamp Act of 1977.

''(c) INDIVIDUALS SUBJECT TO TAX.—For purposes of this section—

''(1) TEMPORARY EMPLOYMENT ASSISTANCE PROGRAM.—Assistance described in subsection (b)(1)(A) shall be treated as received by the relative with whom the dependent child is living (within the meaning of section 406(c) of the Social Security Act).

''(2) FOOD STAMPS.—In the case of assistance described in subsection (b)(1)(B)—

''(A) IN GENERAL.—Except as provided in subparagraph (B), such assistance shall be treated as received ratably by each of the individuals taken into account in determining the amount of such assistance for the benefit of such individuals.

''(B) ASSISTANCE TO CHILDREN TREATED AS RECEIVED BY PARENTS, ETC.—The amount of assistance which would (but for this subparagraph) be treated as received by a child shall be treated as received as follows:

''(i) If there is an includible parent, such amount shall be treated as received by the includible parent (or if there is more than 1 includible parent, as received ratably by each includible parent).

''(ii) If there is no includible parent and there is an includible grandparent, such amount shall be treated as received by the includible grandparent (or if there is more than 1 includible grandparent, as received ratably by each includible grandparent).

''(iii) If there is no includible parent or grandparent, such amount shall be treated as received ratably by each includible adult.

''(C) DEFINITIONS.—For purposes of subparagraph (B)—

''(i) CHILD.—The term 'child' means any individual who has not attained age 16 as of the close of the taxable year. Such term shall not include any individual who is an includible parent of a child (as defined in the preceding sentence).

''(ii) ADULT.—The term 'adult' means any individual who is not a child.

''(iii) INCLUDIBLE.—The term 'includible' means, with respect to any individual, an individual who is included in determining the amount of assistance paid to the household which includes the child.

''(iv) PARENT.—The term 'parent' includes the stepfather and stepmother of the child.

''(v) GRANDPARENT.—The term 'grandparent' means any parent of a parent of the child.

''(d) FOOD STAMP PROGRAM.—For purposes of subsection (b), the term 'food stamp program' means—

''(1) the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977), and

''(2) the portion of the program under sections 21 and 22 of such Act which provides food assistance.''

(b) REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new section:

''SEC. 6050Q. PAYMENTS OF CERTAIN FEDERAL ASSISTANCE.

''(a) REQUIREMENT OF REPORTING.—The appropriate official shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

''(1) the aggregate amount of specified Federal assistance paid to any individual during any calendar year, and

''(2) the name, address, and TIN of such individual.

''(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

''(1) the aggregate amount of payments made to the individual which are required to be shown on such return, and

''(2) the name of the agency making the payments.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(c) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

''(1) APPROPRIATE OFFICIAL.—The term 'appropriate official' means—

''(A) in the case of specified Federal assistance described in section 91(b)(1)(A), the head of the State agency administering the plan under which such assistance is provided,

''(B) in the case of specified Federal assistance described in section 91(b)(1)(B), the head of the State agency administering the program under which such assistance is provided, and

''(C) in the case of specified Federal assistance described in section 91(b)(1)(C), the Secretary of Health and Human Services.

''(2) SPECIFIED FEDERAL ASSISTANCE.—The term 'specified Federal assistance' has the meaning given such term by section 91(b).

''(3) AMOUNTS TREATED AS PAID.—The rules of section 91(c) shall apply for purposes of determining to whom specified Federal assistance is paid.''

(2) PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

''(ix) section 6050Q (relating to payments of certain Federal assistance),''.

(B) Paragraph (2) of section 6724(d) of such Code is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

''(Q) section 6050Q(b) (relating to payments of certain Federal assistance),''.

(c) TEMPORARY EMPLOYMENT ASSISTANCE PROGRAM, SUPPLEMENTAL SECURITY INCOME, AND FOOD STAMP BENEFITS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF THE EARNED INCOME TAX CREDIT.—Section 32 of the Internal Revenue Code of 1986 (relating to the earned income tax credit), is amended by adding at the end the following new subsection:

''(k) ADJUSTED GROSS INCOME DETERMINED WITHOUT REGARD TO CERTAIN FEDERAL ASSISTANCE.—For purposes of this section, adjusted gross income shall be determined without regard to any amount which is includible in gross income solely by reason of section 91.''

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 91. Certain Federal assistance.''

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

''Sec. 6050Q. Payments of certain Federal assistance.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits received after December 31, 1995, except that the amendment made by subsection (c) shall apply to taxable years beginning after such date.

SEC. 9207. DEPENDENT CARE CREDIT TO BE REFUNDABLE; HIGH-INCOME TAXPAYERS INELIGIBLE FOR CREDIT.

(a) CREDIT TO BE REFUNDABLE.—

(1) IN GENERAL.—Section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is hereby moved to subpart C of part IV of subchapter A of chapter 1 of such Code (relating to refundable credits) and inserted after section 34.

(2) TECHNICAL AMENDMENTS.—

(A) Section 35 of such Code is redesignated as section 36.

(B) Section 21 of such Code is redesignated as section 35.

(C) Paragraph (1) of section 35(a) of such Code (as redesignated by subparagraph (B)) is amended by striking ''this chapter'' and inserting ''this subtitle''.

(D) Subparagraph (C) of section 129(a)(2) of such Code is amended by striking ''section 21(e)'' and inserting ''section 35(e)''.

(E) Paragraph (2) of section 129(b) of such Code is amended by striking ''section 21(d)(2)'' and inserting ''section 35(d)(2)''.

(F) Paragraph (1) of section 129(e) of such Code is amended by striking ''section 21(b)(2)'' and inserting ''section 35(b)(2)''.

(G) Subsection (e) of section 213 of such Code is amended by striking ''section 21'' and inserting ''section 35''.

(H) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 35 of such Code''.

(I) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such

Code is amended by striking the item relating to section 35 and inserting the following:

''Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

''Sec. 36. Overpayments of tax.''.

(J) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(b) HIGHER-INCOME TAXPAYERS INELIGIBLE FOR CREDIT.—Subsection (a) of section 35 of such Code, as redesignated by subsection (a), is amended by adding at the end the following new paragraph:

''(3) PHASEOUT OF CREDIT FOR HIGHER-INCOME TAXPAYERS.—The amount of the credit which would (but for this paragraph) be allowed by this section shall be reduced (but not below zero) by an amount which bears the same ratio to such amount of credit as the excess of the taxpayer's adjusted gross income for the taxable year over $60,000 bears to $20,000. Any reduction determined under the preceding sentence which is not a multiple of $10 shall be rounded to the nearest multiple of $10.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle C—Work First

SEC. 9301. WORK FIRST PROGRAM.

(a) ESTABLISHMENT AND OPERATION OF PROGRAM.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part F and inserting the following:

''Part F—Work First Program

''SEC. 481. STATE ROLE.

''(a) PROGRAM REQUIREMENTS.—Any State may establish and operate a work first program that meets the following requirements:

''(1) OBJECTIVE.—The objective of the program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

''(2) METHOD.—The method of the program is to connect recipients of assistance under the State plan approved under part A with the private sector labor market as soon as possible and offer them the support and skills necessary to remain in the labor market. Each component of the program should be permeated with an emphasis on employment and with an understanding that minimum wage jobs are a stepping stone to more highly paid employment. The program shall provide recipients with education, training, job search and placement, wage supplementation, temporary subsidized jobs, or such other services that the State deems necessary to help a recipient obtain private sector employment.

''(3) JOB CREATION.—The creation of jobs, with an emphasis on private sector jobs, shall be a component of the program and shall be a priority for each State office with responsibilities under the program.

''(4) FORMS OF ASSISTANCE.—The State shall provide assistance to participants in the program in the form of education, training, job placement services (including vouchers for job placement services), work supplementation programs, temporary subsidized job creation, job counseling, assistance in establishing microenterprises, or other services to provide individuals with the support and skills necessary to obtain and keep employment in the private sector.

''(5) 2-YEAR LIMITATION ON PARTICIPATION.—The program shall comply with section 487(b).

''(6) AGREEMENTS OF MUTUAL RESPONSIBILITY.—

''(A) IN GENERAL.—The State agency shall develop an agreement of mutual responsibility for each program participant, which will be an individualized comprehensive plan, developed by the team and the participant, to move the participant into a full-time unsubsidized job. The agreement should detail the education, training, or skills that the individual will be receiving to obtain a full-time unsubsidized job, and the obligations of the individual.

''(B) HOURS OF PARTICIPATION REQUIREMENT.—The agreement shall provide that the individual shall participate in activities in accordance with the agreement for—

''(i) not fewer than 20 hours per week during fiscal years 1997 and 1998;

''(ii) not fewer than 25 hours per week during fiscal year 1999; and

''(iii) not fewer than 30 hours per week thereafter.

''(7) CASELOAD PARTICIPATION RATES.—The program shall comply with section 488.

''(8) NONDISPLACEMENT.—The program may not be operated in a manner that results in—

''(A) the displacement of a currently employed worker or position by a program participant;

''(B) the replacement of an employee who has been terminated with a program participant; or

''(C) the replacement of an individual who is on layoff from the same position given to a program participant or any equivalent position.

''(b) ANNUAL REPORTS.—

''(1) COMPLIANCE WITH PERFORMANCE MEASURES.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under section 488(c).

''(2) COMPLIANCE WITH PARTICIPATION RATES.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

''SEC. 482. REVAMPED JOBS PROGRAM.

''A State that establishes a program under this part may operate a program similar to the program known as the 'GAIN Program' that has been operated by Riverside County, California, under Federal law in effect immediately before the date this part first applies to the State of California.

''SEC. 483. USE OF PLACEMENT COMPANIES.

''(a) IN GENERAL.—A State that establishes a program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance.

''(b) REQUIRED CONTRACT TERMS.—Each contract entered into under this section with a company shall meet the following requirements:

''(1) PROVISION OF JOB READINESS AND SUPPORT SERVICES.—The contract shall require the company to provide, to any program participant who presents to the company a voucher issued under subsection (d) intensive personalized support and job readiness services designed to prepare the individual for employment and ensure the continued success of the individual in employment.

''(2) PAYMENTS.—

''(A) IN GENERAL.—The contract shall provide for payments to be made to the company with respect to each program participant who presents to the company a voucher issued under subsection (d).

''(B) STRUCTURE.—The contract shall provide for the majority of the amounts to be paid under the contract with respect to a program participant, to be paid after the company has placed the participant in a position of full-time employment and the participant has been employed in the position for such period of not less than 5 months as the State deems appropriate.

''(c) COMPETITIVE BIDDING REQUIRED.—Contracts under this section shall be awarded only after competitive bidding.

''(d) VOUCHERS.—The State shall issue a voucher to each program participant whose agreement of mutual responsibility provides for the use of placement companies under this section, indicating that the participant is eligible for the services of such a company.

''SEC. 484. TEMPORARY SUBSIDIZED JOB CREATION.

''A State that establishes a program under this part may establish a program similar to the program known as 'JOBS Plus' that has been operated by the State of Oregon under Federal law in effect immediately before the date this part first applies to the State of Oregon.

''SEC. 485. MICROENTERPRISE.

''(a) GRANTS AND LOANS TO NONPROFIT ORGANIZATIONS FOR THE PROVISION OF TECHNICAL ASSISTANCE, TRAINING, AND CREDIT TO LOW INCOME ENTREPRENEURS.—A State that establishes a program under this part may make grants and loans to nonprofit organizations to provide technical assistance, training, and credit to low income entrepreneurs for the purpose of establishing microenterprises.

''(b) MICROENTERPRISE DEFINED.—For purposes of this subsection, the term 'microenterprise' means a commercial enterprise which has 5 or fewer employees, 1 or more of whom owns the enterprise.

''SEC. 486. WORK SUPPLEMENTATION PROGRAM.

''(a) IN GENERAL.—A State that establishes a program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable under the State plan approved under part A to participants in the program and use the sums instead for the purpose of providing and subsidizing jobs for the participants (as described in subsection (c)(3)(A) and (B)), as an alternative to providing such assistance to the participants.

''(b) STATE FLEXIBILITY.—

''(1) Nothing in this part, or in any State plan approved under part A, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this section and section 484 (as in effect immediately before the date this part first applies to the State).

''(2) Notwithstanding any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

''(3) Notwithstanding any other provision of law, a State operating a work supplementation program under this section may provide that the need standards in effect in those areas of the State in which the program is in operation may be different from the need standards in effect in the areas in which the program is not in operation, and the State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

''(4) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of assistance provided under the plan to different categories of recipients (as determined under paragraph (3)) in order to offset increases in benefits

from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

''(5) In determining the amounts to be reserved and used for providing and subsidizing jobs under this section as described in subsection (a), the State may use a sampling methodology.

''(6) Notwithstanding any other provision of law, a State operating a work supplementation program under this section, may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

''(c) RULES RELATING TO SUPPLEMENTED JOBS.—

''(1) A work supplementation program operated by a State under this section may provide that any individual who is an eligible individual (as determined under paragraph (2)) shall take a supplemented job (as defined in paragraph (3)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for temporary employment assistance under part A except as limited by subsection (d).

''(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for assistance under an approved State plan if the State did not have a work supplementation program in effect.

''(3) For purposes of this subsection, a supplemented job is—

''(A) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

''(B) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by the State or local agency.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

''(d) COST LIMITATION.—The amount of the Federal payment to a State under section 413 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in the State under this section had received the maximum amount of assistance providable under the State plan to such a family with no income (without regard to adjustments under subsection (b) of this section) for the lesser of—

''(1) 9 months; or

''(2) the number of months in which the individual was employed in the program.

''(e) RULES OF INTERPRETATION.—

''(1) This section shall not be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom the State or local agency provides a job under the work supplementation program (or with respect to whom the State or local agency provides all or part of the wages paid to the individual by another entity under the program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under the program be provided employee status by the entity during the first 13 weeks the individual fills the position.

''(2) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

''(f) PRESERVATION OF MEDICAID ELIGIBILITY.—Any State that chooses to operate a work supplementation program under this section shall provide that any individual who participates in the program, and any child or relative of the individual (or other individual living in the same household as the individual) who would be eligible for assistance under the State plan approved under part A if the State did not have a work supplementation program, shall be considered individuals receiving assistance under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

''SEC. 487. PARTICIPATION RULES.

''(a) IN GENERAL.—Except as provided in subsection (b), a State that establishes a program under this part may require any individual receiving assistance under the State plan approved under part A to participate in the program.

''(b) 2-YEAR LIMITATION ON PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an individual may not participate in a State program established under this part if the individual has participated in the State program established under this part for 24 months after the date the individual first signed an agreement of mutual responsibility under this part, excluding any month during which the individual worked for an average of at least 25 hours per week in a private sector job.

''(2) AUTHORITY TO ALLOW REPEAT PARTICIPATION.—

''(A) IN GENERAL.—Subject to subparagraph (B) of this paragraph, a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

''(B) LIMITATION ON PERCENTAGE OF REPEAT PARTICIPANTS.—

''(i) IN GENERAL.—Except as provided in clause (ii) of this subparagraph, the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed—

''(I) 10 percent of the total number of individuals who participated in the State program established under this part or the State program established under part H during the immediately preceding program year; or

''(II) in the case of fiscal year 2004 or any succeeding fiscal year, 15 percent of such total number of individuals.

''(ii) AUTHORITY TO INCREASE LIMITATION.—

''(I) PETITION.—A State may request the Secretary to increase to not more than 15 percent the percentage limitation imposed by clause (i)(I) for a fiscal year before fiscal year 2004.

''(II) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

''SEC. 488. CASELOAD PARTICIPATION RATES; PERFORMANCE MEASURES.

''(a) PARTICIPATION RATES.—

''(1) REQUIREMENT.—A State that operates a program under this part shall achieve a participation rate for the following fiscal years of not less than the following percentage:

''Fiscal year:	Percentage:
1997	20
1998	24
1999	28
2000	32
2001	36
2002	40
2003 or later	52.

''(2) PARTICIPATION RATE DEFINED.—

''(A) IN GENERAL.—As used in this subsection, the term 'participation rate' means, with respect to a State and a fiscal year, an amount equal to—

''(i) the average monthly number of individuals who, during the fiscal year, participate in the State program established under this part or (if applicable) part G or H; divided by

''(ii) the average monthly number of individuals who are not described in section 402(c)(1)(D) and for whom an individual responsibility plan is in effect under section 403 during the fiscal year.

''(B) SPECIAL RULE.—For each of the 1st 12 months after an individual ceases to receive assistance under a State plan approved under part A by reason of having become employed for more than 25 hours per week in an unsubsidized job in the private sector, the individual shall be considered to be participating in the State program established under this part, and to be an adult recipient of such assistance, for purposes of subparagraph (A).

''(3) STATE COMPLIANCE REPORTS.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

''(4) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

''(A) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by paragraph (1) for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

''(B) SECOND CONSECUTIVE FAILURE.—Notwithstanding subparagraph (A), if a State fails to achieve the participation rate required by paragraph (1) for 2 consecutive fiscal years, the Secretary may—

''(i) require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G; and

''(ii) reduce by 5 percent the amount otherwise payable to the State under section 413.

''(b) PERFORMANCE STANDARDS.—The Secretary shall develop standards to be used to measure the effectiveness of the programs established under this part and part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment.

''(c) PERFORMANCE-BASED MEASURES.—

''(1) ESTABLISHMENT.—The Secretary shall, by regulation, establish measures of the effectiveness of the State programs established under this part and under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

''(2) ANNUAL COMPLIANCE REPORTS.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under paragraph (1).

''SEC. 489. FEDERAL ROLE.

''(a) APPROVAL OF STATE PLANS.—

''(1) IN GENERAL.—Within 60 days after the date a State submits to the Secretary a plan that provides for the establishment and operation of a work first program that meets the requirements of section 481, the Secretary shall approve the plan.

''(2) AUTHORITY TO EXTEND APPROVAL DEADLINE.—The 60-day deadline established in paragraph (1) with respect to a State may be extended in accordance with an agreement between the Secretary and the State.

''(b) PERFORMANCE-BASED MEASURES.—The Secretary shall, by regulation, establish measures of the effectiveness of the State program established under this part and (if the State has established a program under part G) the State program established under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

''(c) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

''(1) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by section 488 for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

''(2) SECOND CONSECUTIVE FAILURE.—Notwithstanding paragraph (1), if the State has failed to achieve the participation rates required by section 488 for 2 consecutive fiscal years, the Secretary may require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G.

''Part G—Workfare Program

''SEC. 490. ESTABLISHMENT AND OPERATION OF PROGRAM.

''(a) IN GENERAL.—A State that establishes a work first program under part F may establish and carry out a workfare program that meets the requirements of this part, unless the State has established a job placement voucher program under part H.

''(b) OBJECTIVE.—The objective of the workfare program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

''(c) CASE MANAGEMENT TEAMS.—The State shall assign to each program participant a case management team that shall meet with the participant and assist the participant to choose the most suitable workfare job under subsection (e), (f), or (g) and to eventually obtain a full-time unsubsidized paid job.

''(d) PROVISION OF JOBS.—The State shall provide each participant in the program with a community service job that meets the requirements of subsection (e) or a subsidized job that meets the requirements of subsection (f) or (g).

''(e) COMMUNITY SERVICE JOBS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each participant shall work for not fewer than 30 hours per week (or, at the option of the State, 20 hours per week during fiscal years 1997 and 1998, not fewer than 25 hours per week during fiscal year 1999, not fewer than 30 hours per week during fiscal years 2000 and 2001, and not fewer than 35 hours per week thereafter) in a community service job, and be paid at a rate which is not greater than 75 percent (or, at the option of the State, 100 percent) of the maximum amount of assistance that may be provided under the State plan approved under part A to a family of the same size and composition with no income.

''(2) EXCEPTION.—(A) If the participant has obtained unsubsidized part-time employment in the private sector, the State shall provide the participant with a part-time community service job.

''(B) If the State provides a participant a part-time community service job under subparagraph (A), the State shall ensure that the participant works for not fewer than 30 hours per week.

''(3) WAGES NOT CONSIDERED EARNED INCOME.—Wages paid under a workfare program shall not be considered to be earned income for purposes of any provision of law.

''(4) COMMUNITY SERVICE JOB DEFINED.—For purposes of this section, the term 'community service job' means—

''(A) a job provided to a participant by the State administering the State plan under part A; or

''(B) a job provided to a participant by any other employer for which all or part of the wages are paid by the State.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

''(f) TEMPORARY SUBSIDIZED JOB CREATION.—A State that establishes a workfare program under this part may establish a program similar to the program operated by the State of Oregon, which is known as 'JOBS Plus'.

''(g) WORK SUPPLEMENTATION PROGRAM.—

''(1) IN GENERAL.—A State that establishes a workfare program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as a community service minimum wage and use the sums instead for the purpose of providing and subsidizing private sector jobs for the participants.

''(2) EMPLOYER AGREEMENT.—An employer who provides a private sector job to a participant under paragraph (1) shall agree to provide to the participant an amount in wages equal to the poverty threshold for a family of three.

''(h) JOB SEARCH REQUIREMENT.—The State shall require each participant to spend a minimum of 5 hours per week on activities related to securing unsubsidized full-time employment in the private sector.

''(i) DURATION OF PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an individual may not participate for more than 2 years in a workfare program under this part.

''(2) AUTHORITY TO ALLOW REPEATED PARTICIPATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

''(B) LIMITATION ON PERCENTAGE OF REPEAT PARTICIPANTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed 10 percent of the total number of individuals who participated in the program during the immediately preceding program year.

''(ii) AUTHORITY TO INCREASE LIMITATION.—

''(I) PETITION.—A State may request the Secretary to increase the percentage limitation imposed by clause (i) to not more than 15 percent.

''(II) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

''(j) USE OF PLACEMENT COMPANIES.—A State that establishes a workfare program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance in accordance with section 483.

''(k) MAXIMUM OF 3 COMMUNITY SERVICE JOBS.—A program participant may not receive more than 3 community service jobs under the program.

''Part H—Job Placement Voucher Program

''SEC. 490A. JOB PLACEMENT VOUCHER PROGRAM.

''A State that is not operating a workfare program under part G may establish a job placement voucher program that meets the following requirements:

''(1) The program shall offer each program participant a voucher which the participant may use to obtain employment in the private sector.

''(2) An employer who receives a voucher issued under the program from an individual may redeem the voucher at any time after the individual has been employed by the employer for 6 months, unless another employee of the employer was displaced by the employment of the individual.

''(3) Upon presentation of a voucher by an employer to the State agency responsible for the administration of the program, the State agency shall pay to the employer an amount equal to 50 percent of the total amount of assistance provided under the State plan approved under part A to the family of which the individual is a member for the most recent 12 months for which the family was eligible for such assistance.''.

(c) FUNDING.—Section 413(a), as added by section 9101(a) of this Act, is amended—

(1) by striking ''Subject to'' and inserting the following:

''(1) IN GENERAL.—Subject to''; and

(2) by inserting after and below the end the following:

''(2) WORK FIRST AND OTHER PROGRAMS.—(A) Each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H shall be entitled to payments under paragraph (3) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such paragraph) of its expenditures to carry out such programs (subject to limitations prescribed by or pursuant to such parts or this part on expenditures that may be included for purposes of determining payment under paragraph (3)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under subparagraph (B) with respect to the State.

''(B) The limitation determined under this subparagraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (C) for such fiscal year as the average monthly number of adult recipients (as defined in subparagraph (D)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

''(C)(i) The amount specified in this subparagraph is—

''(I) $1,600,000,000 for fiscal year 1997;

''(II) $1,600,000,000 for fiscal year 1998;

''(III) $1,900,000,000 for fiscal year 1999;

''(IV) $2,500,000,000 for fiscal year 2000; and

''(V) $3,200,000,000 for fiscal year 2001; and

''(VI) $4,700,000,000 for fiscal year 2002; and

''(VII) the amount determined under clause (ii) for fiscal year 2003 and each succeeding fiscal year.

''(ii) The amount determined under this clause for a fiscal year is the product of the following:

''(I) The amount specified in this subparagraph for the immediately preceding fiscal year.

''(II) 1.00 plus the percentage (if any) by which—

''(aa) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the most recent 12-month period for which such information is available; exceeds

''(bb) the average of the Consumer Price Index (as so defined) for the 12-month period ending on June 30 of the 2nd preceding fiscal year.

''(III) The amount that bears the same ratio to the amount specified in this subparagraph for the immediately preceding fiscal year as the number of individuals whom the Secretary estimates will participate in programs operated under part F, G, or H during the fiscal year bears to the total number of individuals who participated in such programs during such preceding fiscal year.

''(D) For purposes of this paragraph, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with assistance provided under the State plan approved under this part.

''(E) For purposes of subparagraph (D), the term 'dependent child' means a needy child (i) who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States), or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (ii) who is (I) under the age of eighteen, or (II) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training).

''(F) For purposes of subparagraph (E), the term 'relative with whom any dependent child is living' means the individual who is one of the relatives specified in subparagraph (E) and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

''(3)(A) In lieu of any payment under paragraph (1) therefor, the Secretary shall pay to each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H, with respect to expenditures by the State to carry out such programs, an amount equal to—

''(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect, 90 percent; and

''(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

''(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such programs for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services; and

''(II) 60 percent or the Federal medical assistance percentage (as defined in the last sentence of section 1118), whichever is the greater, in the case of expenditures made by a State in operating such programs for such fiscal year (other than for costs described in subclause (I)).

''(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State's expenditures for the costs of operating such programs may be in cash or in kind, fairly evaluated.

''(C) Not more than 10 percent of the amount payable to a State under this paragraph for a quarter may be for expenditures made during the quarter with respect to program participants who are not eligible for assistance under the State plan approved under this part.''.

(d) SECRETARY'S SPECIAL ADJUSTMENT FUND.—Section 413(a), as added by section 9101(a) of this Act, is amended by adding at the end the following:

''(4) SECRETARY'S SPECIAL ADJUSTMENT FUND.—(A) There shall be available to the Secretary from the amount appropriated for payments under paragraph (2) for States' programs under parts F and G for fiscal year 1996, $300,000,000 for special adjustments to States' limitations on Federal payments for such programs.

''(B) A State may, not later than March 1 and September 1 of each fiscal year, submit to the Secretary a request to adjust the limitation on payments under this section with respect to its program under part F (and, in fiscal years after 1997) its program under part G for the following fiscal year. The Secretary shall only consider such a request from a State which has, or which demonstrates convincingly on the basis of estimates that it will, submit allowable claims for Federal payment in the full amount available to it under paragraph (2) in the current fiscal year and obligated 95 percent of its full amount in the prior fiscal year. The Secretary shall by regulation prescribe criteria for the equitable allocation among the States of Federal payments pursuant to adjustments of the limitations referred to in the preceding sentence in the case where the requests of all States that the Secretary finds reasonable exceed the amount available, and, within 30 days following the dates specified in this paragraph, will notify each State whether one or more of its limitations will be adjusted in accordance with the State's request and the amount of the adjustment (which may be some or all of the amount requested).

''(C) The Secretary may adjust the limitation on Federal payments to a State for a fiscal year under paragraph (2), and upon a determination by the Secretary that (and the amount by which) a State's limitation should be raised, the amount specified in such paragraph shall be considered to be so increased for the following fiscal year.

''(D) The amount made available under subparagraph (A) for special adjustments shall remain available to the Secretary until expended. That amount shall be reduced by the sum of the adjustments approved by the Secretary in any fiscal year, and the amount shall be increased in a fiscal year by the amount by which all States' limitations under paragraph (2) of this subsection and section 2008 for a fiscal year exceeded the sum of the Federal payments under such provisons of law for such fiscal year, but for fiscal years after 1997, such amount at the end of such fiscal year shall not exceed $400,000,000.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 1115(b)(2)(A) (42 U.S.C. 1315(b)(2)(A)) is amended by striking '', and 402(a)(19) (relating to the work incentive program)''.

(2) Section 1108 (42 U.S.C. 1308) is amended—

(A) in subsection (a), by striking ''or, in the case of part A of title IV, section 403(k)''; and

(B) in subsection (d), by striking ''(exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies)''.

(3) Section 1902(a)(10)(A)(i)(I) (42 U.S.C. 1396a(a)(19)(A)(i)(I)) is amended—

(A) by striking ''402(a)(37), 406(h), or''; and

(B) by striking ''482(e)(6)'' and inserting ''486(f)''.

(4) Section 1928(a)(1) (42 U.S.C. 1396s(a)(1)) is amended by striking ''482(e)(6)'' and inserting ''486(f)''.

(f) INTENT OF THE CONGRESS.—The Congress intends for State activities under section 484 of the Social Security Act (as added by the amendment made by section 9301(a) of this Act) to emphasize the use of the funds that would otherwise be used to provide individuals with assistance under part A of title IV of the Social Security Act and with food stamp benefits under the Food Stamp Act of 1977, to subsidize the wages of such individuals in temporary jobs.

(g) SENSE OF THE CONGRESS.—It is the sense of the Congress that States should target individuals who have not attained 25 years of age for participation in the program established by the State under part F of title IV of the Social Security Act (as added by the amendment made by section 9301(a) of this section) in order to break the cycle of welfare dependency.

SEC. 9302. REGULATIONS.

The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle.

SEC. 9303. APPLICABILITY TO STATES.

(a) STATE OPTION TO ACCELERATE APPLICABILITY.—If a State formally notifies the Secretary of Health and Human Services that the State desires to accelerate the applicability to the State of the amendments made by this subtitle, the amendments shall apply to the State on and after such earlier date as the State may select.

(b) STATE OPTION TO DELAY APPLICABILITY UNTIL WAIVERS EXPIRE.—The amendments made by this subtitle shall not apply to a State with respect to which there is in effect a waiver issued under section 1115 of the Social Security Act for the State program established under part F of title IV of such Act, until the waiver expires, if the State formally notifies the Secretary of Health and Human Services that the State desires to so delay such effective date.

(c) AUTHORITY OF THE SECRETARY OF HEALTH AND HUMAN SERVICES TO DELAY APPLICABILITY TO A STATE.—If a State formally notifies the Secretary of Health and Human Services that the State desires to delay the applicability to the State of the amendments made by this title, the amendments shall apply to the State on and after any later date agreed upon by the Secretary and the State.

Subtitle D—Family Responsibility And Improved Child Support Enforcement

CHAPTER 1—ELIGIBILITY AND OTHER MATTERS CONCERNING TITLE IV–D PROGRAM CLIENTS

SEC. 9401. STATE OBLIGATION TO PROVIDE PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE LAW REQUIREMENTS.—Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following:

''(12) USE OF CENTRAL CASE REGISTRY AND CENTRALIZED COLLECTIONS UNIT.—Procedures under which—

''(A) every child support order established or modified in the State on or after October 1, 1998, is recorded in the central case registry established in accordance with section 454A(e); and

''(B) child support payments are collected through the centralized collections unit established in accordance with section 454B—

''(i) on and after October 1, 1998, under each order subject to wage withholding under section 466(b); and

''(ii) on and after October 1, 1999, under each other order required to be recorded in such central case registry under this paragraph or section 454A(e), except as provided in subparagraph (C); and

''(C)(i) parties subject to a child support order described in subparagraph (B)(ii) may opt out of the procedure for payment of support through the centralized collections unit (but not the procedure for inclusion in the central case registry) by filing with the State agency a written agreement, signed by both parties, to an alternative payment procedure; and

''(ii) an agreement described in clause (i) becomes void whenever either party advises the State agency of an intent to vacate the agreement.''.

(b) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following:

''(4) provide that such State will undertake—

''(A) to provide appropriate services under this part to—

''(i) each child with respect to whom an assignment is effective under section 403(b)(1)(E)(i), 471(a)(17), or 1912 (except in cases where the State agency determines, in accordance with paragraph (25), that it is against the best interests of the child to do so); and

''(ii) each child not described in clause (i)—

''(I) with respect to whom an individual applies for such services; and

''(II) (on and after October 1, 1998) each child with respect to whom a support order is recorded in the central State case registry established under section 454A, regardless of whether application is made for services under this part; and

''(B) to enforce the support obligation established with respect to the custodial parent of a child described in subparagraph (A) unless the parties to the order which establishes the support obligation have opted, in accordance with section 466(a)(12)(C), for an alternative payment procedure.''; and

(2) in paragraph (6)—

(A) by striking subparagraph (A) and inserting the following:

''(A) services under the State plan shall be made available to nonresidents on the same terms as to residents;'';

(B) in subparagraph (B)—

(i) by inserting ''on individuals not receiving assistance under part A'' after ''such services shall be imposed''; and

(ii) by inserting ''but no fees or costs shall be imposed on any absent or custodial parent or other individual for inclusion in the central State registry maintained pursuant to section 454A(e)''; and

(C) in each of subparagraphs (B), (C), and (D)—

(i) by indenting such subparagraph and aligning its left margin with the left margin of subparagraph (A); and

(ii) by striking the final comma and inserting a semicolon.

(c) CONFORMING AMENDMENTS.—

(1) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking ''454(6)'' each place it appears and inserting ''454(4)(A)(ii)''.

(2) Section 454(23) (42 U.S.C. 654(23)) is amended, effective October 1, 1998, by striking ''information as to any application fees for such services and''.

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking ''in the case of overdue support which a State has agreed to collect under section 454(6)'' and inserting ''in any other case''.

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking ''or (6)''.

SEC. 9402. DISTRIBUTION OF PAYMENTS.

(a) DISTRIBUTIONS THROUGH STATE CHILD SUPPORT ENFORCEMENT AGENCY TO FORMER ASSISTANCE RECIPIENTS.—Section 454(5) (42 U.S.C. 654(5)) is amended—

(1) in subparagraph (A)—

(A) by striking section 402(a)(26) is effective,'' and inserting ''section 403(b)(1)(E)(i) is effective, except as otherwise specifically provided in section 464 or 466(a)(3),''; and

(B) by striking ''except that'' and all that follows through the semicolon; and

(2) in subparagraph (B), by striking '', except'' and all that follows through ''medical assistance''.

(b) DISTRIBUTION TO A FAMILY CURRENTLY RECEIVING TEMPORARY EMPLOYMENT ASSISTANCE.—Section 457 (42 U.S.C. 657) is amended—

(1) by striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) in subsection (a) (as so redesignated)—

(A) in the matter preceding paragraph (2), to read as follows:

''(a) IN THE CASE OF A FAMILY RECEIVING TEA.—Amounts collected under this part during any month as support of a child who is receiving assistance under part A (or a parent or caretaker relative of such a child) shall (except in the case of a State exercising the option under subsection (b)) be distributed as follows:

''(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

''(A) the amounts received in a month which represent payments for that month; and

''(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;'';

(B) in paragraph (4), by striking ''or (B)'' and all that follows through the period and inserting ''; then (B) from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and then (C) any remainder shall be paid to the family.''; and

(3) by inserting after subsection (a) (as so redesignated) the following new subsection:

''(b) ALTERNATIVE DISTRIBUTION IN CASE OF FAMILY RECEIVING TEA.—In the case of a State electing the option under this subsection, amounts collected as described in subsection (a) shall be distributed as follows:

''(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

''(A) the amounts received in a month which represent payments for that month; and

''(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;

''(2) second, from any remainder, amounts equal to the balance of support owed for the current month shall be paid to the family;

''(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to the State making the collection shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

''(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

''(5) fifth, any remainder shall be paid to the family.''.

(c) DISTRIBUTION TO A FAMILY NOT RECEIVING TEA.—Section 457(c) (42 U.S.C. 657(c)) is amended to read as follows:

''(c) DISTRIBUTIONS IN CASE OF FAMILY NOT RECEIVING TEA.—Amounts collected by a State agency under this part during any month as support of a child who is not receiving assistance under part A (or of a parent or caretaker relative of such a child) shall (subject to the remaining provisions of this section) be distributed as follows:

''(1) first, amounts equal to the total of such support owed for such month shall be paid to the family;

''(2) second, from any remainder, amounts equal to arrearages of such support obligations for months during which such child did not receive assistance under part A shall be paid to the family;

''(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned to the State making the collection pursuant to part A shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

''(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned to any other State pursuant to part A shall be paid to such other State or States, and used to pay such arrearages, in the order in which such arrearages accrued (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing).''.

(d) DISTRIBUTION TO A CHILD RECEIVING ASSISTANCE UNDER TITLE IV–E.—Section 457(d) (42 U.S.C. 657(d)) is amended, in the matter preceding paragraph (1), by striking ''Notwithstanding the preceding provisions of this section, amounts'' and inserting the following:

''(d) DISTRIBUTIONS IN CASE OF A CHILD RECEIVING ASSISTANCE UNDER TITLE IV–E.—Amounts''.

(e) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations under part A of title IV of the Social Security Act, establishing standards applicable to States electing the alternative formula under section 457(b) of such Act for distribution of collections on behalf of families receiving temporary employment assistance, designed to minimize irregular monthly payments to such families.

(f) CLERICAL AMENDMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (11)—

(A) by striking ''(11)'' and inserting ''(11)(A)''; and

(B) by inserting after the semicolon ''and''; and

(2) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall become effective on October 1, 1996.

(2) FAMILY NOT RECEIVING TEA.—The amendment made by subsection (c) shall become effective on October 1, 1999.

(3) SPECIAL RULES.—

(A) APPLICABILITY.—A State may elect to have the amendments made by any subsection of this section become effective only with respect to child support cases beginning on or after the effective date of such subsection.

(B) DELAYED IMPLEMENTATION.—A State may elect to have the amendments made by this section (other than subsection (c)) become effective on a date later than October 1, 1996, which date shall coincide with the operation of the single statewide automated data processing and information retrieval system required by section 454A of the Social Security Act (as added by section 9415(a)(2) of this Act) and the State centralized collection unit required by section 454B of the Social Security Act (as added by section 9422(b) of this Act).

SEC. 9403. DUE PROCESS RIGHTS.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 9402(f) of this Act, is amended by inserting after paragraph (11) the following new paragraph:

''(12) provide for procedures to ensure that—

''(A) individuals who are applying for or receiving services under this part, or are parties to cases in which services are being provided under this part—

''(i) receive notice of all proceedings in which support obligations might be established or modified; and

''(ii) receive a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination;

''(B) individuals applying for or receiving services under this part have access to a fair hearing that meets standards established by the Secretary and ensures prompt consideration and resolution of complaints (but the resort to such procedure shall not stay the enforcement of any support order); and

''(C) individuals adversely affected by the establishment or modification of (or, in the case of a petition for modification, the determination that there should be no change in) a child support order shall be afforded not less than 30 days after the receipt of the order or determination to initiate proceedings to challenge such order or determination;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

SEC. 9404. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 454) is amended—

(1) by striking ''and'' at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting ''; and''; and

(3) by adding after paragraph (24) the following:

''(25) will have in effect safeguards applicable to all sensitive and confidential information handled by the State agency designed to protect the privacy rights of the parties, including—

''(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

''(B) prohibitions on the release of information on the whereabouts of one party to another party against whom a protective order with respect to the former party has been entered; and

''(C) prohibitions on the release of information on the whereabouts of one party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

CHAPTER 2—PROGRAM ADMINISTRATION AND FUNDING

SEC. 9411. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as follows:

''(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

''(A) for fiscal year 1997, 69 percent,

''(B) for fiscal year 1998, 72 percent, and

''(C) for fiscal year 1999 and succeeding fiscal years, 75 percent.''.

(b) MAINTENANCE OF EFFORT.—Section 455 (42 U.S.C. 655) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking ''From'' and inserting ''Subject to subsection (c), from''; and

(2) by inserting after subsection (b) the following new subsection:

''(c) MAINTENANCE OF EFFORT.—Notwithstanding the provisions of subsection (a), total expenditures for the State program under this part for fiscal year 1997 and each succeeding fiscal year, reduced by the percentage specified for such fiscal year under subsection (a)(2)(A), (B), or (C)(i), shall not be less than such total expenditures for fiscal year 1996, reduced by 66 percent.''.

SEC. 9412. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) INCENTIVE ADJUSTMENTS TO FEDERAL MATCHING RATE.—Section 458 (42 U.S.C. 658) is amended to read as follows:

''INCENTIVE ADJUSTMENTS TO MATCHING RATE

''SEC. 458. (a) INCENTIVE ADJUSTMENT.—(1) IN GENERAL.—In order to encourage and reward State child support enforcement programs which perform in an effective manner, the Federal matching rate for payments to a State under section 455(a)(1)(A), for each fiscal year beginning on or after October 1, 1998, shall be increased by a factor reflecting the sum of the applicable incentive adjustments (if any) determined in accordance with regulations under this section with respect to Statewide paternity establishment and to overall performance in child support enforcement.

''(2) STANDARDS.—(A) IN GENERAL.—The Secretary shall specify in regulations—

''(i) the levels of accomplishment, and rates of improvement as alternatives to such levels, which States must attain to qualify for incentive adjustments under this section; and

''(ii) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels, which amounts shall be graduated, ranging up to—

''(I) 5 percentage points, in connection with Statewide paternity establishment; and

''(II) 10 percentage points, in connection with overall performance in child support enforcement.

''(B) LIMITATION.—In setting performance standards pursuant to subparagraph (A)(i) and adjustment amounts pursuant to subparagraph (A)(ii), the Secretary shall ensure that the aggregate number of percentage point increases as incentive adjustments to all States do not exceed such aggregate increases as assumed by the Secretary in estimates of the cost of this section as of June 1995, unless the aggregate performance of all States exceeds the projected aggregate performance of all States in such cost estimates.

''(3) DETERMINATION OF INCENTIVE ADJUSTMENT.—The Secretary shall determine the amount (if any) of incentive adjustment due each State on the basis of the data submitted by the State pursuant to section 454(15)(B) concerning the levels of accomplishment (and rates of improvement) with respect to performance indicators specified by the Secretary pursuant to this section.

''(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUSTMENT.—The total percentage point increase determined pursuant to this section with respect to a State program in a fiscal year shall apply as an adjustment to the applicable percent under section 455(a)(2) for payments to such State for the succeeding fiscal year.

''(5) RECYCLING OF INCENTIVE ADJUSTMENT.—A State shall expend in the State program under this part all funds paid to the State by the Federal Government as a result of an incentive adjustment under this section.

''(b) MEANING OF TERMS.—For purposes of this section—

''(1) the term 'Statewide paternity establishment percentage' means, with respect to a fiscal year, the ratio (expressed as a percentage) of—

''(A) the total number of out-of-wedlock children in the State under one year of age for whom paternity is established or acknowledged during the fiscal year, to

''(B) the total number of children born out of wedlock in the State during such fiscal year; and

''(2) the term 'overall performance in child support enforcement' means a measure or measures of the effectiveness of the State agency in a fiscal year which takes into account factors including—

''(A) the percentage of cases requiring a child support order in which such an order was established;

''(B) the percentage of cases in which child support is being paid;

''(C) the ratio of child support collected to child support due; and

''(D) the cost-effectiveness of the State program, as determined in accordance with standards established by the Secretary in regulations.''.

(b) ADJUSTMENT OF PAYMENTS UNDER PART D OF TITLE IV.—Section 455(a)(2) (42 U.S.C. 655(a)(2)), as amended by section 9411(a) of this Act, is amended—

(1) by striking the period at the end of subparagraph (C)(ii) and inserting a comma; and

(2) by adding after and below subparagraph (C), flush with the left margin of the subsection, the following:

''increased by the incentive adjustment factor (if any) determined by the Secretary pursuant to section 458.''.

(c) CONFORMING AMENDMENTS.—Section 454(22) (42 U.S.C. 654(22)) is amended—

(1) by striking ''incentive payments'' the first place it appears and inserting ''incentive adjustments''; and

(2) by striking ''any such incentive payments made to the State for such period'' and inserting ''any increases in Federal payments to the State resulting from such incentive adjustments''.

(d) CALCULATION OF IV–D PATERNITY ESTABLISHMENT PERCENTAGE.—(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended in the matter preceding subparagraph (A) by inserting ''its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and'' after ''1994,''.

(2) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i)—

(i) by striking ''paternity establishment percentage'' and inserting ''IV–D paternity establishment percentage''; and

(ii) by striking ''(or all States, as the case may be)'';

(B) in subparagraph (A)(i), by striking ''during the fiscal year'';

(C) in subparagraph (A)(ii)(I), by striking ''as of the end of the fiscal year'' and inserting ''in the fiscal year or, at the option of the State, as of the end of such year'';

(D) in subparagraph (A)(ii)(II), by striking ''or (E) as of the end of the fiscal year'' and inserting ''in the fiscal year or, at the option of the State, as of the end of such year'';

(E) in subparagraph (A)(iii)—

(i) by striking ''during the fiscal year''; and

(ii) by striking ''and'' at the end; and

(F) in the matter following subparagraph (A)—

(i) by striking ''who were born out of wedlock during the immediately preceding fiscal year'' and inserting ''born out of wedlock'';

(ii) by striking ''such preceding fiscal year'' both places it appears and inserting ''the preceding fiscal year''; and

(iii) by striking ''or (E)'' the second place it appears.

(3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A), as redesignated, by striking ''the percentage of children born out-of-wedlock in the State'' and inserting ''the percentage of children in the State who are born out of wedlock or for whom support has not been established''; and

(C) in subparagraph (B), as redesignated—

(i) by inserting ''and overall performance in child support enforcement'' after ''paternity establishment percentages''; and

(ii) by inserting ''and securing support'' before the period.

(e) REDUCTION OF PAYMENTS UNDER PART D OF TITLE IV.—

(1) NEW REQUIREMENTS.—Section 455 (42 U.S.C. 655) is amended by inserting after subsection (b) the following:

''(c)(1) If the Secretary finds, with respect to a State program under this part in a fiscal year beginning on or after October 1, 1997—

''(A)(i) on the basis of data submitted by a State pursuant to section 454(15)(B), that the State program in such fiscal year failed to achieve the IV–D paternity establishment percentage (as defined in section 452(g)(2)(A)) or the appropriate level of overall performance in child support enforcement (as defined in section 458(b)(2)), or to meet other performance measures that may be established by the Secretary, or

''(ii) on the basis of an audit or audits of such State data conducted pursuant to section 452(a)(4)(C), that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; and

''(B) that, with respect to the succeeding fiscal year—

''(i) the State failed to take sufficient corrective action to achieve the appropriate performance levels as described in subparagraph (A)(i) of this paragraph, or

''(ii) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable,

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program is in compliance with such performance requirement, shall be reduced by the percentage specified in paragraph (2).

''(2) The reductions required under paragraph (1) shall be—

''(A) not less than 6 nor more than 8 percent, or

''(B) not less than 8 nor more than 12 percent, if the finding is the second consecutive finding made pursuant to paragraph (1), or

''(C) not less than 12 nor more than 15 percent, if the finding is the third or a subsequent consecutive such finding.

''(3) For purposes of this subsection, section 405(d), and section 452(a)(4), a State which is determined as a result of an audit to have submitted incomplete or unreliable data pursuant to section 454(15)(B), shall be determined to have submitted adequate data if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's performance.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended by striking ''403(h)'' each place such term appears and inserting ''455(c)''.

(B) Subsections (d)(3)(A), (g)(1), and (g)(3)(A) of section 452 (42 U.S.C. 652) are each amended by striking ''403(h)'' and inserting ''455(c)''.

(f) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—(A) The amendments made by subsections (a), (b), and (c) shall become effective October 1, 1997, except to the extent provided in subparagraph (B).

(B) Section 458 of the Social Security Act, as in effect prior to the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years prior to fiscal year 1999.

(2) PENALTY REDUCTIONS.—(A) The amendments made by subsection (d) shall become effective with respect to calendar quarters beginning on and after the date of enactment of this Act.

(B) The amendments made by subsection (e) shall become effective with respect to calendar quarters beginning on and after the date one year after the date of enactment of this Act.

SEC. 9413. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking ''(14)'' and inserting ''(14)(A)'';

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

''(15) provide for—

''(A) a process for annual reviews of and reports to the Secretary on the State program under this part, which shall include such information as may be necessary to measure State compliance with Federal requirements for expedited procedures and timely case processing, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which such program is in conformity with applicable requirements with respect to the operation of State programs under this part (including the status of complaints filed under the procedure required under paragraph (12)(B)); and

''(B) a process of extracting from the State automated data processing system and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.''.

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

''(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of section 452(g) and 458, and determine the amount (if any) of penalty reductions pursuant to section 455(c) to be applied to the State;

''(B) review annual reports by State agencies pursuant to section 454(15)(A) on State program conformity with Federal requirements; evaluate any elements of a State program in which significant deficiencies are indicated by such report on the status of complaints under the State procedure under section 454(12)(B); and, as appropriate, provide to the State agency comments, recommendations for additional or alternative corrective actions, and technical assistance; and

''(C) conduct audits, in accordance with the government auditing standards of the United States Comptroller General—

''(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet requirements of this part, or of regulations implementing such requirements, concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used for the calculations of performance indicators specified in subsection (g) and section 458;

''(ii) of the adequacy of financial management of the State program, including assessments of—

''(I) whether Federal and other funds made available to carry out the State program under this part are being appropriately expended, and are properly and fully accounted for; and

''(II) whether collections and disbursements of support payments and program income are carried out correctly and are properly and fully accounted for; and

''(iii) for such other purposes as the Secretary may find necessary;''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after the date one year after enactment of this section.

SEC. 9414. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting '', and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements

of this part relating to expedited processes and timely case processing) to be applied in following such procedures'' before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 9404(a) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting ''; and''; and

(3) by adding after paragraph (25) the following:

''(26) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.''.

SEC. 9415. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—(1) Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking '', at the option of the State,'';

(B) by inserting ''and operation by the State agency'' after ''for the establishment'';

(C) by inserting ''meeting the requirements of section 454A'' after ''information retrieval system'';

(D) by striking ''in the State and localities thereof, so as (A)'' and inserting ''so as'';

(E) by striking ''(i)''; and

(F) by striking ''(including'' and all that follows and inserting a semicolon.

(2) Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

''AUTOMATED DATA PROCESSING

''SEC. 454A. (a) IN GENERAL.—In order to meet the requirements of this section, for purposes of the requirement of section 454(16), a State agency shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section, and performs such tasks with the frequency and in the manner specified in this part or in regulations or guidelines of the Secretary.

''(b) PROGRAM MANAGEMENT.—The automated system required under this section shall perform such functions as the Secretary may specify relating to management of the program under this part, including—

''(1) controlling and accounting for use of Federal, State, and local funds to carry out such program; and

''(2) maintaining the data necessary to meet Federal reporting requirements on a timely basis.

''(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

''(1) use the automated system—

''(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

''(B) to calculate the IV–D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year; and

''(2) have in place systems controls to ensure the completeness, and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

''(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required under this section, which shall include the following (in addition to such other safeguards as the Secretary specifies in regulations):

''(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

''(A) permit access to and use of data only to the extent necessary to carry out program responsibilities;

''(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data; and

''(C) ensure that data obtained or disclosed for a limited program purpose is not used or redisclosed for another, impermissible purpose.

''(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies specified under paragraph (1).

''(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

''(4) TRAINING AND INFORMATION.—The State agency shall have in effect procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use sensitive or confidential program data are fully informed of applicable requirements and penalties, and are adequately trained in security procedures.

''(5) PENALTIES.—The State agency shall have in effect administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.''.

(3) REGULATIONS.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

''(j) The Secretary shall prescribe final regulations for implementation of the requirements of section 454A not later than 2 years after the date of the enactment of this subsection.''.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by sections 9404(a)(2) and 9414(b)(1) of this Act, is amended to read as follows:

''(24) provide that the State will have in effect an automated data processing and information retrieval system—

''(A) by October 1, 1995, meeting all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

''(B) by October 1, 1999, meeting all requirements of this part enacted on or before the date of enactment of the Omnibus Budget Reconciliation Act of 1995 (but this provision shall not be construed to alter earlier deadlines specified for elements of such system), except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 452(j) of this Act;''.

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(1) in paragraph (1)(B)—

(A) by striking ''90 percent'' and inserting ''the percent specified in paragraph (3)'';

(B) by striking ''so much of''; and

(C) by striking ''which the Secretary'' and all that follows and inserting '', and''; and

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

''(3)(A) The Secretary shall pay to each State, for each quarter in fiscal year 1996, 90 percent of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16), or meeting such requirements without regard to clause (D) thereof.

''(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) and 454A, subject to clause (iii).

''(ii) The percentage specified in this clause, for purposes of clause (i), is the higher of—

''(I) 80 percent, or

''(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted pursuant to section 458).''.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.

(d) ADDITIONAL PROVISIONS.—For additional provisions of section 454A, as added by subsection (a) of this section, see the amendments made by sections 9421, 9422(c), and 9433(d) of this Act.

SEC. 9416. DIRECTOR OF CSE PROGRAM; STAFFING STUDY.

(a) REPORTING TO SECRETARY.—Section 452(a) (42 U.S.C. 652(a)) is amended in the matter preceding paragraph (1) by striking ''directly''.

(b) STAFFING STUDIES.—

(1) SCOPE.—The Secretary of Health and Human Services shall, directly or by contract, conduct studies of the staffing of each State child support enforcement program under part D of title IV of the Social Security Act. Such studies shall include a review of the staffing needs created by requirements for automated data processing, maintenance of a central case registry and centralized collections of child support, and of changes in these needs resulting from changes in such requirements. Such studies shall examine and report on effective staffing practices used by the States and on recommended staffing procedures.

(2) FREQUENCY OF STUDIES.—The Secretary shall complete the first staffing study required under paragraph (1) by October 1, 1997, and may conduct additional studies subsequently at appropriate intervals.

(3) REPORT TO THE CONGRESS.—The Secretary shall submit a report to the Congress stating the findings and conclusions of each study conducted under this subsection.

SEC. 9417. FUNDING FOR SECRETARIAL ASSISTANCE TO STATE PROGRAMS.

Section 452 (42 U.S.C. 652), as amended by section 9415(a)(3) of this Act, is amended by adding at the end the following new subsection:

''(k) FUNDING FOR FEDERAL ACTIVITIES ASSISTING STATE PROGRAMS.—(1) There shall be available to the Secretary, from amounts appropriated for fiscal year 1996 and each succeeding fiscal year for payments to States under this part, the amount specified in paragraph (2) for the costs to the Secretary for—

''(A) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs (including technical assistance concerning State automated systems);

''(B) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part; and

''(C) operation of the Federal Parent Locator Service under section 453, to the extent such costs are not recovered through user fees.

''(2) The amount specified in this paragraph for a fiscal year is the amount equal to a percentage of the reduction in Federal payments to States under part A on account of child support (including arrearages) collected in the preceding fiscal year on behalf of children receiving assistance under State

plans approved under part A in such preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), equal to—

''(A) 1 percent, for the activities specified in subparagraphs (A) and (B) of paragraph (1); and

''(B) 2 percent, for the activities specified in subparagraph (C) of paragraph (1).''.

SEC. 9418. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking ''this part;'' and inserting ''this part, including—''; and

(B) by adding at the end the following indented clauses:

''(i) the total amount of child support payments collected as a result of services furnished during such fiscal year to individuals receiving services under this part;

''(ii) the cost to the States and to the Federal Government of furnishing such services to those individuals; and

''(iii) the number of cases involving families—

''(I) who became ineligible for assistance under a State plan approved under part A during a month in such fiscal year; and

''(II) with respect to whom a child support payment was received in the same month;''.

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking ''with the data required under each clause being separately stated for cases'' and inserting ''separately stated for (1) cases'';

(ii) by striking ''cases where the child was formerly receiving'' and inserting ''or formerly received'';

(iii) by inserting ''or 1912'' after ''471(a)(17)''; and

(iv) by inserting ''(2)'' before ''all other'';

(B) in each of clauses (i) and (ii), by striking '', and the total amount of such obligations'';

(C) in clause (iii), by striking ''described in'' and all that follows and inserting ''in which support was collected during the fiscal year;'';

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

''(iv) the total amount of support collected during such fiscal year and distributed as current support;

''(v) the total amount of support collected during such fiscal year and distributed as arrearages;

''(vi) the total amount of support due and unpaid for all fiscal years; and''.

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking ''on the use of Federal courts and''.

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (I).

(b) DATA COLLECTION AND REPORTING.—Section 469 (42 U.S.C. 669) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) The Secretary shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to services to establish paternity and services to establish child support obligations, the data specified in subsection (b), separately stated, in the case of each such service, with respect to—

''(1) families (or dependent children) receiving assistance under State plans approved under part A (or E); and

''(2) families not receiving such assistance.

''(b) The data referred to in subsection (a) are—

''(1) the number of cases in the caseload of the State agency administering the plan under this part in which such service is needed; and

''(2) the number of such cases in which the service has been provided.''; and

(2) in subsection (c), by striking ''(a)(2)'' and inserting ''(b)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 3—LOCATE AND CASE TRACKING

SEC. 9421. CENTRAL STATE AND CASE REGISTRY.

Section 454A, as added by section 9415(a)(2) of this Act, is amended by adding at the end the following:

''(e) CENTRAL CASE REGISTRY.—(1) IN GENERAL.—The automated system required under this section shall perform the functions, in accordance with the provisions of this subsection, of a single central registry containing records with respect to each case in which services are being provided by the State agency (including, on and after October 1, 1998, each order specified in section 466(a)(12)), using such standardized data elements (such as names, social security numbers or other uniform identification numbers, dates of birth, and case identification numbers), and containing such other information (such as information on case status) as the Secretary may require.

''(2) PAYMENT RECORDS.—Each case record in the central registry shall include a record of—

''(A) the amount of monthly (or other periodic) support owed under the support order, and other amounts due or overdue (including arrears, interest or late payment penalties, and fees);

''(B) the date on which or circumstances under which the support obligation will terminate under such order;

''(C) all child support and related amounts collected (including such amounts as fees, late payment penalties, and interest on arrearages);

''(D) the distribution of such amounts collected; and

''(E) the birth date of the child for whom the child support order is entered.

''(3) UPDATING AND MONITORING.—The State agency shall promptly establish and maintain, and regularly monitor, case records in the registry required by this subsection, on the basis of—

''(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

''(B) information obtained from matches with Federal, State, or local data sources;

''(C) information on support collections and distributions; and

''(D) any other relevant information.

''(f) DATA MATCHES AND OTHER DISCLOSURES OF INFORMATION.—The automated system required under this section shall have the capacity, and be used by the State agency, to extract data at such times, and in such standardized format or formats, as may be required by the Secretary, and to share and match data with, and receive data from, other data bases and data matching services, in order to obtain (or provide) information necessary to enable the State agency (or Secretary or other State or Federal agencies) to carry out responsibilities under this part. Data matching activities of the State agency shall include at least the following:

''(1) DATA BANK OF CHILD SUPPORT ORDERS.—Furnish to the Data Bank of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) minimal information (to be specified by the Secretary) on each child support case in the central case registry.

''(2) FEDERAL PARENT LOCATOR SERVICE.—Exchange data with the Federal Parent Locator Service for the purposes specified in section 453.

''(3) TEMPORARY EMPLOYMENT ASSISTANCE PROGRAM AND MEDICAID AGENCIES.—Exchange data with State agencies (of the State and of other States) administering the programs under part A and title XIX, as necessary for the performance of State agency responsibilities under this part and under such programs.

''(4) INTRA- AND INTERSTATE DATA MATCHES.—Exchange data with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.''.

SEC. 9422. CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a) and 9414(b) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting ''; and''; and

(3) by adding after paragraph (26) the following new paragraph:

''(27) provide that the State agency, on and after October 1, 1998—

''(A) will operate a centralized, automated unit for the collection and disbursement of child support under orders being enforced under this part, in accordance with section 454B; and

''(B) will have sufficient State staff (consisting of State employees), and (at State option) contractors reporting directly to the State agency to monitor and enforce support collections through such centralized unit, including carrying out the automated data processing responsibilities specified in section 454A(g) and to impose, as appropriate in particular cases, the administrative enforcement remedies specified in section 466(c)(1).''.

(b) ESTABLISHMENT OF CENTRALIZED COLLECTION UNIT.—Part D of title IV (42 U.S.C. 651–669) is amended by adding after section 454A the following new section:

''CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS

''SEC. 454B. (a) IN GENERAL.—In order to meet the requirement of section 454(27), the State agency must operate a single centralized, automated unit for the collection and disbursement of support payments, coordinated with the automated data system required under section 454A, in accordance with the provisions of this section, which shall be—

''(1) operated directly by the State agency (or by two or more State agencies under a regional cooperative agreement), or by a single contractor responsible directly to the State agency; and

''(2) used for the collection and disbursement (including interstate collection and disbursement) of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

''(b) REQUIRED PROCEDURES.—The centralized collections unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

''(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other

obligees, the State agency, and the State agencies of other States;

''(2) for accurate identification of payments;

''(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

''(4) to furnish to either parent, upon request, timely information on the current status of support payments.''.

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by section 9421 of this Act, is amended by adding at the end the following new subsection:

''(g) CENTRALIZED COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—The automated system required under this section shall be used, to the maximum extent feasible, to assist and facilitate collections and disbursement of support payments through the centralized collections unit operated pursuant to section 454B, through the performance of functions including at a minimum—

''(1) generation of orders and notices to employers (and other debtors) for the withholding of wages (and other income)—

''(A) within two working days after receipt (from the directory of New Hires established under section 453(i) or any other source) of notice of and the income source subject to such withholding; and

''(B) using uniform formats directed by the Secretary;

''(2) ongoing monitoring to promptly identify failures to make timely payment; and

''(3) automatic use of enforcement mechanisms (including mechanisms authorized pursuant to section 466(c)) where payments are not timely made.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 9423. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—(1) Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

''(1) INCOME WITHHOLDING.—(A) UNDER ORDERS ENFORCED UNDER THE STATE PLAN.—Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

''(B) UNDER CERTAIN ORDERS PREDATING CHANGE IN REQUIREMENT.—Procedures under which all child support orders issued (or modified) before October 1, 1996, and which are not otherwise subject to withholding under subsection (b), shall become subject to withholding from wages as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.''.

(2) Section 466(a)(8) (42 U.S.C. 666(a)(8)) is repealed.

(3) Section 466(b) (42 U.S.C. 666(b)) is amended—

(A) in the matter preceding paragraph (1), by striking ''subsection (a)(1)'' and inserting ''subsection (a)(1)(A)'';

(B) in paragraph (5), by striking all that follows ''administered by'' and inserting ''the State through the centralized collections unit established pursuant to section 454B, in accordance with the requirements of such section 454B.'';

(C) in paragraph (6)(A)(i)—

(i) by inserting '', in accordance with timetables established by the Secretary,'' after ''must be required''; and

(ii) by striking ''to the appropriate agency'' and all that follows and inserting ''to the State centralized collections unit within 5 working days after the date such amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.'';

(D) in paragraph (6)(A)(ii), by inserting ''be in a standard format prescribed by the Secretary, and'' after ''shall''; and

(E) in paragraph (6)(D)—

(i) by striking ''employer who discharges'' and inserting ''employer who—(A) discharges'';

(ii) by relocating subparagraph (A), as designated, as an indented subparagraph after and below the introductory matter;

(iii) by striking the period at the end; and

(iv) by adding after and below subparagraph (A) the following new subparagraph:

''(B) fails to withhold support from wages, or to pay such amounts to the State centralized collections unit in accordance with this subsection.''.

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

(c) DEFINITION OF TERMS.—The Secretary shall promulgate regulations providing definitions, for purposes of part D of title IV of the Social Security Act, for the term ''income'' and for such other terms relating to income withholding under section 466(b) of such Act as the Secretary may find it necessary or advisable to define.

SEC. 9424. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 9423(a)(2) of this Act, is amended by inserting after paragraph (7) the following:

''(8) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures ensuring that the State will neither provide funding for, nor use for any purpose (including any purpose unrelated to the purposes of this part), any automated interstate network or system used to locate individuals—

''(A) for purposes relating to the use of motor vehicles; or

''(B) providing information for law enforcement purposes (where child support enforcement agencies are otherwise allowed access by State and Federal law),

unless all Federal and State agencies administering programs under this part (including the entities established under section 453) have access to information in such system or network to the same extent as any other user of such system or network.''.

SEC. 9425. EXPANDED FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows ''subsection (c))'' and inserting the following:

'', for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations—

''(1) information on, or facilitating the discovery of, the location of any individual—

''(A) who is under an obligation to pay child support;

''(B) against whom such an obligation is sought; or

''(C) to whom such an obligation is owed, including such individual's social security number (or numbers), most recent residential address, and the name, address, and employer identification number of such individual's employer; and

''(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

''(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''social security'' and all that follows through ''absent parent'' and inserting ''information specified in subsection (a)''; and

(B) in paragraph (2), by inserting before the period '', or from any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))'';

(3) in subsection (e)(1), by inserting before the period '', or by consumer reporting agencies''.

(b) REIMBURSEMENT FOR DATA FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the fourth sentence by inserting before the period ''in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data)''.

(c) ACCESS TO CONSUMER REPORTS UNDER FAIR CREDIT REPORTING ACT.—(1) Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(A) by striking '', limited to'' and inserting ''to a governmental agency (including the entire consumer report, in the case of a Federal, State, or local agency administering a program under part D of title IV of the Social Security Act, and limited to''; and

(B) by striking ''employment, to a governmental agency'' and inserting ''employment, in the case of any other governmental agency)''.

(2) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES AND CREDIT BUREAUS.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

''(g) The Secretary is authorized to reimburse costs to State agencies and consumer credit reporting agencies the costs incurred by such entities in furnishing information requested by the Secretary pursuant to this section in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data).''.

(d) DISCLOSURE OF TAX RETURN INFORMATION.—(1) Section 6103(1)(6)(A)(ii) of the Internal Revenue Code of 1986 is amended by striking '', but only if'' and all that follows and inserting a period.

(2) Section 6103(1)(8)(A) of the Internal Revenue Code of 1986 is amended by inserting ''Federal,'' before ''State or local''.

(e) TECHNICAL AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), and 463(e) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), and 663(e)) are each amended by inserting ''Federal'' before ''Parent'' each place it appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding ''FEDERAL'' before ''PARENT''.

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (c)(2) of this section, is amended by adding at the end the following:

''(h) DATA BANK OF CHILD SUPPORT ORDERS.—

''(1) IN GENERAL.—Not later than October 1, 1998, In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry to be known as the Data Bank of Child Support Orders, which shall contain abstracts of child support orders and other information described in paragraph (2) on each case in each State central case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

''(2) CASE INFORMATION.—The information referred to in paragraph (1), as specified by the Secretary, shall include sufficient information (including names, social security

numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have established or modified, or are enforcing or seeking to establish, such an order.

''(i) DIRECTORY OF NEW HIRES.—

''(1) IN GENERAL.—Not later than October 1, 1998, In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated directory to be known as the directory of New Hires, containing—

''(A) information supplied by employers on each newly hired individual, in accordance with paragraph (2); and

''(B) information supplied by State agencies administering State unemployment compensation laws, in accordance with paragraph (3).

''(2) EMPLOYER INFORMATION.—

''(A) INFORMATION REQUIRED.—Subject to subparagraph (D), each employer shall furnish to the Secretary, for inclusion in the directory established under this subsection, not later than 10 days after the date (on or after October 1, 1998) on which the employer hires a new employee (as defined in subparagraph (C)), a report containing the name, date of birth, and social security number of such employee, and the employer identification number of the employer.

''(B) REPORTING METHOD AND FORMAT.—The Secretary shall provide for transmission of the reports required under subparagraph (A) using formats and methods which minimize the burden on employers, which shall include—

''(i) automated or electronic transmission of such reports;

''(ii) transmission by regular mail; and

''(iii) transmission of a copy of the form required for purposes of compliance with section 3402 of the Internal Revenue Code of 1986.

''(C) EMPLOYEE DEFINED.—For purposes of this paragraph, the term 'employee' means any individual subject to the requirement of section 3402(f)(2) of the Internal Revenue Code of 1986.

''(D) PAPERWORK REDUCTION REQUIREMENT.—As required by the information resources management policies published by the Director of the Office of Management and Budget pursuant to section 3504(b)(1) of title 44, United States Code, the Secretary, in order to minimize the cost and reporting burden on employers, shall not require reporting pursuant to this paragraph if an alternative reporting mechanism can be developed that either relies on existing Federal or State reporting or enables the Secretary to collect the needed information in a more cost-effective and equally expeditious manner, taking into account the reporting costs on employers.

''(E) CIVIL MONEY PENALTY ON NONCOMPLYING EMPLOYERS.—(i) Any employer that fails to make a timely report in accordance with this paragraph with respect to an individual shall be subject to a civil money penalty, for each calendar year in which the failure occurs, of the lesser of $500 or 1 percent of the wages or other compensation paid by such employer to such individual during such calendar year.

''(ii) Subject to clause (iii), the provisions of section 1128A (other than subsections (a) and (b) thereof) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

''(iii) Any employer with respect to whom a penalty under this subparagraph is upheld after an administrative hearing shall be liable to pay all costs of the Secretary with respect to such hearing.

''(3) EMPLOYMENT SECURITY INFORMATION.—

''(A) REPORTING REQUIREMENT.—Each State agency administering a State unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act shall furnish to the Secretary of Health and Human Services extracts of the reports to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals required under section 303(a)(6), in accordance with subparagraph (B).

''(B) MANNER OF COMPLIANCE.—The extracts required under subparagraph (A) shall be furnished to the Secretary of Health and Human Services on a quarterly basis, with respect to calendar quarters beginning on and after October 1, 1996, by such dates, in such format, and containing such information as required by that Secretary in regulations.

''(j) DATA MATCHES AND OTHER DISCLOSURES.—

''(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—(A) The Secretary shall transmit data on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

''(B) The Social Security Administration shall verify the accuracy of, correct or supply to the extent necessary and feasible, and report to the Secretary, the following information in data supplied by the Secretary pursuant to subparagraph (A):

''(i) the name, social security number, and birth date of each individual; and

''(ii) the employer identification number of each employer.

''(2) CHILD SUPPORT LOCATOR MATCHES.—For the purpose of locating individuals for purposes of paternity establishment and establishment and enforcement of child support, the Secretary shall—

''(A) match data in the directory of New Hires against the child support order abstracts in the Data Bank of Child Support Orders not less often than every 2 working days; and

''(B) report information obtained from such a match to concerned State agencies operating programs under this part not later than 2 working days after such match.

''(3) DATA MATCHES AND DISCLOSURES OF DATA IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—The Secretary shall—

''(A) perform matches of data in each component of the Federal Parent Locator Service maintained under this section against data in each other such component (other than the matches required pursuant to paragraph (1)), and report information resulting from such matches to State agencies operating programs under this part and parts A, F, and G; and

''(B) disclose data in such registries to such State agencies,

to the extent, and with the frequency, that the Secretary determines to be effective in assisting such States to carry out their responsibilities under such programs.

''(k) FEES.—

''(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, the costs incurred by the Commissioner in performing the verification services specified in subsection (j).

''(2) FOR INFORMATION FROM SESAS.—The Secretary shall reimburse costs incurred by State employment security agencies in furnishing data as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such data).

''(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—State and Federal agencies receiving data or information from the Secretary pursuant to this section shall reimburse the costs incurred by the Secretary in furnishing such data or information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and matching such data or information).

''(l) RESTRICTION ON DISCLOSURE AND USE.—Data in the Federal Parent Locator Service, and information resulting from matches using such data, shall not be used or disclosed except as specifically provided in this section.

''(m) RETENTION OF DATA.—Data in the Federal Parent Locator Service, and data resulting from matches performed pursuant to this section, shall be retained for such period (determined by the Secretary) as appropriate for the data uses specified in this section.

''(n) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

''(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

''(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

''(o) LIMIT ON LIABILITY.—The Secretary shall not be liable to either a State or an individual for inaccurate information provided to a component of the Federal Parent Locator Service section and disclosed by the Secretary in accordance with this section.''.

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

''(B) the Federal Parent Locator Service established under section 453;''.

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''Secretary of Health, Education, and Welfare'' each place such term appears and inserting ''Secretary of Health and Human Services'';

(B) in subparagraph (B), by striking ''such information'' and all that follows and inserting ''information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;'';

(C) by striking ''and'' at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

''(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the directory of New Hires established under section 453(i) of the Social Security Act, and''.

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Section 303(a) (42 U.S.C. 503(a)) is amended—

(A) by striking ''and'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(C) by adding after paragraph (9) the following new paragraph:

''(10) The making of quarterly electronic reports, at such dates, in such format, and containing such information, as required by the Secretary of Health and Human Services under section 453(i)(3), and compliance with such provisions as such Secretary may find necessary to ensure the correctness and verification of such reports.''.

SEC. 9426. USE OF SOCIAL SECURITY NUMBERS.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 9401(a) of this Act, is amended by inserting after paragraph (12) the following:

''(13) SOCIAL SECURITY NUMBERS REQUIRED.—Procedures requiring the recording of social security numbers—

''(A) of both parties on marriage licenses and divorce decrees; and

''(B) of both parents, on birth records and child support and paternity orders.''.

(b) CLARIFICATION OF FEDERAL POLICY.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended by striking the third sentence and inserting ''This clause shall not be considered to authorize disclosure of such numbers except as provided in the preceding sentence.''.

CHAPTER 4—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 9431. ADOPTION OF UNIFORM STATE LAWS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a) and 9426(a) of this Act, is amended inserting after paragraph (13) the following:

''(14) INTERSTATE ENFORCEMENT.—(A) ADOPTION OF UIFSA.—Procedures under which the State adopts in its entirety (with the modifications and additions specified in this paragraph) not later than January 1, 1997, and uses on and after such date, the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August, 1992.

''(B) EXPANDED APPLICATION OF UIFSA.—The State law adopted pursuant to subparagraph (A) shall be applied to any case—

''(i) involving an order established or modified in one State and for which a subsequent modification is sought in another State; or

''(ii) in which interstate activity is required to enforce an order.

''(C) JURISDICTION TO MODIFY ORDERS.—The State law adopted pursuant to subparagraph (A) of this paragraph shall contain the following provision in lieu of section 611(a)(1) of the Uniform Interstate Family Support Act described in such subparagraph (A):

'''(1) the following requirements are met:

'''(i) the child, the individual obligee, and the obligor—

'''(I) do not reside in the issuing State; and

'''(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

'''(ii) (in any case where another State is exercising or seeks to exercise jurisdiction to modify the order) the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

''(D) SERVICE OF PROCESS.—The State law adopted pursuant to subparagraph (A) shall recognize as valid, for purposes of any proceeding subject to such State law, service of process upon persons in the State (and proof of such service) by any means acceptable in another State which is the initiating or responding State in such proceeding.

''(E) COOPERATION BY EMPLOYERS.—The State law adopted pursuant to subparagraph (A) shall provide for the use of procedures (including sanctions for noncompliance) under which all entities in the State (including for-profit, nonprofit, and governmental employers) are required to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor.''.

SEC. 9432. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking ''subsection (e)'' and inserting ''subsections (e), (f), and (i)'';

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

'''child's home State' means the State in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month period.'';

(3) in subsection (c), by inserting ''by a court of a State'' before ''is made'';

(4) in subsection (c)(1), by inserting ''and subsections (e), (f), and (g)'' after ''located'';

(5) in subsection (d)—

(A) by inserting ''individual'' before ''contestant''; and

(B) by striking ''subsection (e)'' and inserting ''subsections (e) and (f)'';

(6) in subsection (e), by striking ''make a modification of a child support order with respect to a child that is made'' and inserting ''modify a child support order issued'';

(7) in subsection (e)(1), by inserting ''pursuant to subsection (i)'' before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting ''individual'' before ''contestant'' each place such term appears; and

(B) by striking ''to that court's making the modification and assuming'' and inserting ''with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume'';

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following:

''(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If one or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

''(1) If only one court has issued a child support order, the order of that court must be recognized.

''(2) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

''(3) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

''(4) If two or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

''(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.'';

(11) in subsection (g) (as so redesignated)—

(A) by striking ''PRIOR'' and inserting ''MODIFIED''; and

(B) by striking ''subsection (e)'' and inserting ''subsections (e) and (f)'';

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting ''including the duration of current payments and other obligations of support'' before the comma; and

(B) in paragraph (3), by inserting ''arrears under'' after ''enforce''; and

(13) by adding at the end the following:

''(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.''.

SEC. 9433. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666) is amended—

(1) in subsection (a)(2), in the first sentence, to read as follows: ''Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations.''; and

(2) by adding after subsection (b) the following new subsection:

''(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

''(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority (and recognize and enforce the authority of State agencies of other States), without the necessity of obtaining an order from any other judicial or administrative tribunal (but subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal), to take the following actions relating to establishment or enforcement of orders:

''(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

''(B) DEFAULT ORDERS.—To enter a default order, upon a showing of service of process and any additional showing required by State law—

''(i) establishing paternity, in the case of any putative father who refuses to submit to genetic testing; and

''(ii) establishing or modifying a support obligation, in the case of a parent (or other obligor or obligee) who fails to respond to notice to appear at a proceeding for such purpose.

''(C) SUBPOENAS.—To subpoena any financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to any such subpoena.

''(D) ACCESS TO PERSONAL AND FINANCIAL INFORMATION.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

''(i) records of other State and local government agencies, including—

''(I) vital statistics (including records of marriage, birth, and divorce);

''(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

''(III) records concerning real and titled personal property;

''(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

''(V) employment security records;

''(VI) records of agencies administering public assistance programs;

''(VII) records of the motor vehicle department; and

''(VIII) corrections records; and

''(ii) certain records held by private entities, including—

''(I) customer records of public utilities and cable television companies; and

''(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access).

''(E) INCOME WITHHOLDING.—To order income withholding in accordance with subsection (a)(1) and (b) of section 466.

''(F) CHANGE IN PAYEE.—(In cases where support is subject to an assignment under section 403(b)(1)(E)(i), 471(a)(17), or 1912, or to a requirement to pay through the centralized collections unit under section 454B) upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

''(G) SECURE ASSETS TO SATISFY ARREARAGES.—For the purpose of securing overdue support—

''(i) to intercept and seize any periodic or lump-sum payment to the obligor by or through a State or local government agency, including—

''(I) unemployment compensation, workers' compensation, and other benefits;

''(II) judgments and settlements in cases under the jurisdiction of the State or local government; and

''(III) lottery winnings;

''(ii) to attach and seize assets of the obligor held by financial institutions;

''(iii) to attach public and private retirement funds in appropriate cases, as determined by the Secretary; and

''(iv) to impose liens in accordance with paragraph (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

''(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages (subject to such conditions or restrictions as the State may provide).

''(I) SUSPENSION OF DRIVERS' LICENSES.—To suspend drivers' licenses of individuals owing past-due support, in accordance with subsection (a)(16).

''(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

''(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

''(i) the parties to any paternity or child support proceedings are required (subject to privacy safeguards) to file with the tribunal before entry of an order, and to update as appropriate, information on location and identity (including Social Security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer); and

''(ii) in any subsequent child support enforcement action between the same parties, the tribunal shall be authorized, upon sufficient showing that diligent effort has been made to ascertain such party's current location, to deem due process requirements for notice and service of process to be met, with respect to such party, by delivery to the most recent residential or employer address so filed pursuant to clause (i).

''(B) STATEWIDE JURISDICTION.—Procedures under which—

''(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties, and orders issued in such cases have statewide effect; and

''(ii) (in the case of a State in which orders in such cases are issued by local jurisdictions) a case may be transferred between jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.''.

(c) EXCEPTIONS FROM STATE LAW REQUIREMENTS.—Section 466(d) (42 U.S.C. 666(d)) is amended—

(1) by striking ''(d) If'' and inserting the following:

''(d) EXEMPTIONS FROM REQUIREMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), if''; and

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

''(2) NONEXEMPT REQUIREMENTS.—The Secretary shall not grant an exemption from the requirements of—

''(A) subsection (a)(5) (concerning procedures for paternity establishment);

''(B) subsection (a)(10) (concerning modification of orders);

''(C) subsection (a)(12) (concerning recording of orders in the central State case registry);

''(D) subsection (a)(13) (concerning recording of Social Security numbers);

''(E) subsection (a)(14) (concerning interstate enforcement); or

''(F) subsection (c) (concerning expedited procedures), other than paragraph (1)(A) thereof (concerning establishment or modification of support amount).''.

(d) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by sections 9421 and 9422(c) of this Act, is amended by adding at the end the following new subsection:

''(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required under this section shall be used, to the maximum extent feasible, to implement any expedited administrative procedures required under section 466(c).''.

CHAPTER 5—PATERNITY ESTABLISHMENT

SEC. 9441. SENSE OF THE CONGRESS.

It is the sense of the Congress that social services should be provided in hospitals to women who have become pregnant as a result of rape or incest.

SEC. 9442. AVAILABILITY OF PARENTING SOCIAL SERVICES FOR NEW FATHERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), and 9431 of this Act, is amended by inserting after paragraph (14) the following:

''(15) Procedures for providing new fathers with positive parenting counseling that stresses the importance of paying child support in a timely manner, in accordance with regulations prescribed by the Secretary.''.

SEC. 9443. COOPERATION REQUIREMENT AND GOOD CAUSE EXCEPTION.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking ''and'' at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting ''; and''; and

(3) by inserting after paragraph (24) the following:

''(25) provide that the State agency administering the plan under this part—

''(A) will make the determination specified under paragraph (4), as to whether an individual is cooperating with efforts to establish paternity and secure support (or has good cause not to cooperate with such efforts) for purposes of the requirements of sections 403(b)(1)(E)(i) and 1912;

''(B) will advise individuals, both orally and in writing, of the grounds for good cause exceptions to the requirement to cooperate with such efforts;

''(C) will take the best interests of the child into consideration in making the determination whether such individual has good cause not to cooperate with such efforts;

''(D)(i) will make the initial determination as to whether an individual is cooperating (or has good cause not to cooperate) with efforts to establish paternity within 10 days after such individual is referred to such State agency by the State agency administering the program under part A of title XIX;

''(ii) will make redeterminations as to cooperation or good cause at appropriate intervals; and

''(iii) will promptly notify the individual, and the State agencies administering such programs, of each such determination and redetermination;

''(E) with respect to any child born on or after the date 10 months after enactment of this provision, will not determine (or redetermine) the mother (or other custodial relative) of such child to be cooperating with efforts to establish paternity unless such individual furnishes—

''(i) the name of the putative father (or fathers); and

''(ii) sufficient additional information to enable the State agency, if reasonable efforts were made, to verify the identity of the person named as the putative father (including such information as the putative father's present address, telephone number, date of birth, past or present place of employment, school previously or currently attended, and names and addresses of parents, friends, or relatives able to provide location information, or other information that could enable service of process on such person), and

''(F)(i) (where a custodial parent who was initially determined not to be cooperating (or to have good cause not to cooperate) is later determined to be cooperating or to have good cause not to cooperate) will immediately notify the State agencies administering the programs under part A of title XIX that this eligibility condition has been met; and

''(ii) (where a custodial parent was initially determined to be cooperating (or to have good cause not to cooperate)) will not later determine such individual not to be cooperating (or not to have good cause not to cooperate) until such individual has been afforded an opportunity for a hearing.''.

(b) MEDICAID AMENDMENTS.—Section 1912(a) (42 U.S.C. 1396k(a)) is amended—

(1) in paragraph (1)(B), by inserting ''(except as provided in paragraph (2))'' after ''to cooperate with the State'';

(2) in subparagraphs (B) and (C) of paragraph (1) by striking '', unless'' and all that follows and inserting a semicolon; and

(3) by redesignating paragraph (2) as paragraph (5), and inserting after paragraph (1) the following new paragraphs:

''(2) provide that the State agency will immediately refer each applicant or recipient requiring paternity establishment services to the State agency administering the program under part D of title IV;

''(3) provide that an individual will not be required to cooperate with the State, as provided under paragraph (1), if the individual is found to have good cause for refusing to cooperate, as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved—

''(A) to the satisfaction of the State agency administering the program under part D, as determined in accordance with section 454(25), with respect to the requirements to cooperate with efforts to establish paternity and to obtain support (including medical support) from a parent; and

''(B) to the satisfaction of the State agency administering the program under this title, with respect to other requirements to cooperate under paragraph (1);

''(4) provide that (except as provided in paragraph (5)) an applicant requiring paternity establishment services (other than an individual presumptively eligible pursuant to section 1920) shall not be eligible for medical assistance under this title until such applicant—

''(i) has furnished to the agency administering the State plan under part D of title IV the information specified in section 454(25)(E); or

''(ii) has been determined by such agency to have good cause not to cooperate; and

''(5) provide that the provisions of paragraph (4) shall not apply with respect to an applicant—

''(i) if such agency has not, within 10 days after such individual was referred to such agency, provided the notification required by section 454(25)(D)(iii), until such notification is received); and

''(ii) if such individual appeals a determination that the individual lacks good cause for noncooperation, until after such determination is affirmed after notice and opportunity for a hearing.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications filed in or after the first calendar quarter beginning 10 months or more after the date of the enactment of this Act (or such earlier quarter as the State may select) for assistance under a State plan approved under part A of title IV of the Social Security Act or for medical assistance under a State plan approved under title XIX of such Act.

SEC. 9444. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as follows:

''(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

''(A) for fiscal year 1996, 69 percent;

''(B) for fiscal year 1997, 72 percent; and

''(C) for fiscal year 1998 and succeeding fiscal years, 75 percent.''.

(b) MAINTENANCE OF EFFORT.—Section 455 (42 U.S.C. 655) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking ''From'' and inserting ''Subject to subsection (c), from''; and

(2) by inserting after subsection (b) the following:

''(c) MAINTENANCE OF EFFORT.—Notwithstanding subsection (a), total expenditures for the State program under this part for fiscal year 1996 and each succeeding fiscal year, reduced by the percentage specified for such fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2), shall not be less than such total expenditures for fiscal year 1995, reduced by 66 percent.''.

SEC. 9445. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended—

(1) by striking ''(5)'' and inserting the following:

''(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—'';

(2) in subparagraph (A)—

(A) by striking ''(A)(i)'' and inserting the following:

''(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE EIGHTEEN.—(i)''; and

(B) by indenting clauses (i) and (ii) so that the left margin of such clauses is 2 ems to the right of the left margin of paragraph (4);

(3) in subparagraph (B)—

(A) by striking ''(B)'' and inserting the following:

''(B) PROCEDURES CONCERNING GENETIC TESTING.—(i)'';

(B) in clause (i), as redesignated, by inserting before the period '', where such request is supported by a sworn statement (I) by such party alleging paternity setting forth facts establishing a reasonable possibility of the requisite sexual contact of the parties, or (II) by such party denying paternity setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact of the parties;'';

(C) by inserting after and below clause (i) (as redesignated) the following new clause:

''(ii) Procedures which require the State agency, in any case in which such agency orders genetic testing—

''(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the putative father if paternity is established; and

''(II) to obtain additional testing in any case where an original test result is disputed, upon request and advance payment by the disputing party.'';

(4) by striking subparagraphs (C) and (D) and inserting the following:

''(C) PATERNITY ACKNOWLEDGMENT.—(i) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the putative father and the mother must be given notice, orally, in writing, and in a language that each can understand, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

''(ii) Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

''(iii) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

''(iv) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies. The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as, voluntary paternity establishment programs of hospitals and birth record agencies.

''(v) Such procedures must require the State and those required to establish paternity to use only the affidavit developed under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State.

''(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—(i) Procedures under which a signed acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within 60 days.

''(ii)(I) Procedures under which, after the 60-day period referred to in clause (i), a signed acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

''(II) Procedures under which, after the 60-day period referred to in clause (i), a minor who signs an acknowledgment of paternity other than in the presence of a parent or court-appointed guardian ad litem may rescind the acknowledgment in a judicial or administrative proceeding, until the earlier of—

''(aa) attaining the age of majority; or

''(bb) the date of the first judicial or administrative proceeding brought (after the signing) to establish a child support obligation, visitation rights, or custody rights with respect to the child whose paternity is the subject of the acknowledgment, and at which the minor is represented by a parent, guardian ad litem, or attorney.'';

(5) by striking subparagraph (E) and inserting the following:

''(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgment of paternity.'';

(6) by striking subparagraph (F) and inserting the following:

''(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

''(i) requiring that the State admit into evidence, for purposes of establishing paternity, results of any genetic test that is—

''(I) of a type generally acknowledged, by accreditation bodies designated by the Secretary, as reliable evidence of paternity; and

''(II) performed by a laboratory approved by such an accreditation body;

''(ii) that any objection to genetic testing results must be made in writing not later than a specified number of days before any hearing at which such results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of such results); and

''(iii) that, if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.''; and

(7) by adding after subparagraph (H) the following new subparagraphs:

''(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to jury trial.

''(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

''(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services and testing on behalf of the child.

''(L) WAIVER OF STATE DEBTS FOR COOPERATION.—At the option of the State, procedures under which the tribunal establishing paternity and support has discretion to waive rights to all or part of amounts owed to the State (but not to the mother) for costs related to pregnancy, childbirth, and genetic testing and for public assistance paid to the family where the father cooperates or acknowledges paternity before or after genetic testing.

''(M) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.''.

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting '', and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security account number of each parent'' before the semicolon.

(c) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking ''a simple civil process for voluntarily acknowledging paternity and''.

SEC. 9446. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENT.—Section 454(23) (42 U.S.C. 654(23)) is amended by adding at the end the following new subparagraph:

''(C) publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

''(i) include distribution of written materials at health care facilities (including hospitals and clinics), and other locations such as schools;

''(ii) may include pre-natal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such pre-natal programs, as an element of cooperation with efforts to establish paternity and child support);

''(iii) include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow-up efforts (including at least one contact of each parent whose whereabouts are known, except where there is reason to believe such follow-up efforts would put mother or child at risk), providing—

''(I) in the case of a child for whom paternity has not been established, information on the benefits of and procedures for establishing paternity; and

''(II) in the case of a child for whom paternity has been established but child support has not been established, information on the benefits of and procedures for establishing a child support order, and an application for child support services;''.

(b) ENHANCED FEDERAL MATCHING.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(1) by inserting ''(i)'' before ''laboratory costs'', and

(2) by inserting before the semicolon '', and (ii) costs of outreach programs designed to encourage voluntary acknowledgment of paternity''.

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall become effective October 1, 1997.

(2) The amendments made by subsection (b) shall be effective with respect to calendar quarters beginning on and after October 1, 1996.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 9451. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the ''National Child Support Guidelines Commission'' (in this section referred to as the ''Commission'').

(b) GENERAL DUTIES.—The Commission shall develop a national child support guideline for consideration by the Congress that is based on a study of various guideline models, the benefits and deficiencies of such models, and any needed improvements.

(c) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed jointly by the Secretary of Health and Human Services and the Congress, not later than January 15, 1997, of which—

(i) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(ii) 2 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1 shall be appointed by the ranking minority member of the Committee; and

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(e) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a recommended national child support guideline and a final assessment of issues relating to such a proposed national child support guideline.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

SEC. 9452. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

''(10) PROCEDURES FOR MODIFICATION OF SUPPORT ORDERS.—

''(A)(i) Procedures under which—

''(I) every 3 years, at the request of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with such guidelines, without a requirement for any other change in circumstances; and

''(II) upon request at any time of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) based on a substantial change in the circumstances of either such parent.

''(ii) Such procedures shall require both parents subject to a child support order to be notified of their rights and responsibilities provided for under clause (i) at the time the order is issued and in the annual information exchange form provided under subparagraph (B).

''(B) Procedures under which each child support order issued or modified in the State after the effective date of this subparagraph shall require the parents subject to the order to provide each other with a complete statement of their respective financial condition annually on a form which shall be established by the Secretary and provided by the State. The Secretary shall establish regulations for the enforcement of such exchange of information.''.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 9461. FEDERAL INCOME TAX REFUND OFFSET.

(a) CHANGED ORDER OF REFUND DISTRIBUTION UNDER INTERNAL REVENUE CODE.—Section 6402(c) of the Internal Revenue Code of 1986 is amended by striking the 3rd sentence.

(b) ELIMINATION OF DISPARITIES IN TREATMENT OF ASSIGNED AND NON-ASSIGNED ARREARAGES.—(1) Section 464(a) (42 U.S.C. 664(a)) is amended—

(A) by striking ''(a)'' and inserting ''(a) OFFSET AUTHORIZED.—'';

(B) in paragraph (1)—

(i) in the first sentence, by striking ''which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)''; and

(ii) in the second sentence, by striking ''in accordance with section 457 (b)(4) or (d)(3)'' and inserting ''as provided in paragraph (2)'';

(C) in paragraph (2), to read as follows:

''(2) The State agency shall distribute amounts paid by the Secretary of the Treasury pursuant to paragraph (1)—

''(A) in accordance with section 457(a)(4) or (d)(3), in the case of past-due support assigned to a State pursuant to section 403(b)(1)(E)(i) or 471(a)(17); and

''(B) to or on behalf of the child to whom the support was owed, in the case of past-due support not so assigned.'';

(D) in paragraph (3)—

(i) by striking ''or (2)'' each place it appears; and

(ii) in subparagraph (B), by striking ''under paragraph (2)'' and inserting ''on account of past-due support described in paragraph (2)(B)''.

(2) Section 464(b) (42 U.S.C. 664(b)) is amended—

(A) by striking ''(b)(1)'' and inserting ''(b) REGULATIONS.—''; and

(B) by striking paragraph (2).

(3) Section 464(c) (42 U.S.C. 664(c)) is amended—

(A) by striking ''(c)(1) Except as provided in paragraph (2), as'' and inserting ''(c) DEFINITION.—As''; and

(B) by striking paragraphs (2) and (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1999.

SEC. 9462. INTERNAL REVENUE SERVICE COLLECTION OF ARREARS.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6305(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by inserting ''except as provided in paragraph (5)'' after ''collected'';

(2) by striking ''and'' at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting a comma;

(4) by adding after paragraph (4) the following new paragraph:

''(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor.''; and

(5) by striking ''Secretary of Health, Education, and Welfare'' each place it appears and inserting ''Secretary of Health and Human Services''.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 9463. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—

(1) Section 459 (42 U.S.C. 659) is amended in the caption by inserting ''INCOME WITHHOLDING,'' before ''GARNISHMENT''.

(2) Section 459(a) (42 U.S.C. 659(a)) is amended—

(A) by striking ''(a)'' and inserting ''(a) CONSENT TO SUPPORT ENFORCEMENT.—

(B) by striking ''section 207'' and inserting ''section 207 of this Act and 38 U.S.C. 5301''; and

(C) by striking all that follows ''a private person,'' and inserting ''to withholding in accordance with State law pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary thereunder, and to any other legal process brought, by a State agency administering a program under this part or by an individual obligee, to enforce the legal obligation of such individual to provide child support or alimony.''.

(3) Section 459(b) (42 U.S.C. 659(b)) is amended to read as follows:

''(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.— Except as otherwise provided herein, each entity specified in subsection (a) shall be subject, with respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or to any other order or process to enforce support obligations against an individual (if such order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), to the same requirements as would apply if such entity were a private person.''.

(4) Section 459(c) (42 U.S.C. 659(c)) is redesignated and relocated as paragraph (2) of subsection (f), and is amended—

(A) by striking ''responding to interrogatories pursuant to requirements imposed by section 461(b)(3)'' and inserting ''taking actions necessary to comply with the requirements of subsection (A) with regard to any individual''; and

(B) by striking ''any of his duties'' and all that follows and inserting ''such duties.''.

(5) Section 461 (42 U.S.C. 661) is amended by striking subsection (b), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (b) (as added by paragraph (3) of this subsection) the following:

''(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS.—(1) The head of each agency subject to the requirements of this section shall—

''(A) designate an agent or agents to receive orders and accept service of process; and

''(B) publish (i) in the appendix of such regulations, (ii) in each subsequent republication of such regulations, and (iii) annually in the Federal Register, the designation of such agent or agents, identified by title of position, mailing address, and telephone number.''.

(6) Section 459 (42 U.S.C. 659) is amended by striking subsection (d) and by inserting after subsection (c)(1) (as added by paragraph (5) of this subsection) the following:

''(2) Whenever an agent designated pursuant to paragraph (1) receives notice pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatories, with respect to an individual's child support or alimony payment obligations, such agent shall—

''(A) as soon as possible (but not later than fifteen days) thereafter, send written notice of such notice or service (together with a copy thereof) to such individual at his duty station or last-known home address;

''(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to subsection (a)(1) or (b) of section 466, comply with all applicable provisions of such section 466; and

''(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatories, respond thereto.''.

(7) Section 461 (42 U.S.C. 661) is amended by striking subsection (c), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (c) (as added by paragraph (5) and amended by paragraph (6) of this subsection) the following:

''(d) PRIORITY OF CLAIMS.—In the event that a governmental entity receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than one person—

''(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

''(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by the provisions of such section 466(b) and regulations thereunder; and

''(3) such moneys as remain after compliance with subparagraphs (A) and (B) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.''.

(8) Section 459(e) (42 U.S.C. 659(e)) is amended by striking ''(e)'' and inserting the following:

''(e) NO REQUIREMENT TO VARY PAY CYCLES.—''.

(9) Section 459(f) (42 U.S.C. 659(f)) is amended by striking ''(f)'' and inserting the following:

''(f) RELIEF FROM LIABILITY.—(1)''.

(10) Section 461(a) (42 U.S.C. 661(a)) is redesignated and relocated as section 459(g), and is amended—

(A) by striking ''(g)'' and inserting the following:

''(g) REGULATIONS.—''; and

(B) by striking ''section 459'' and inserting ''this section''.

(11) Section 462 (42 U.S.C. 662) is amended by striking subsection (f), and section 459 (42 U.S.C. 659) is amended by inserting the following after subsection (g) (as added by paragraph (10) of this subsection):

''(h) MONEYS SUBJECT TO PROCESS.—(1) Subject to subsection (i), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

''(A) consist of—

''(i) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

''(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

''(I) under the insurance system established by title II;

''(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

''(III) as compensation for death under any Federal program;

''(IV) under any Federal program established to provide 'black lung' benefits; or

''(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death (except any compensation paid by such Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation); and

''(iii) worker's compensation benefits paid under Federal or State law; but

''(B) do not include any payment—

''(i) by way of reimbursement or otherwise, to defray expenses incurred by such individual in carrying out duties associated with his employment; or

''(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.''.

(12) Section 462(g) (42 U.S.C. 662(g)) is redesignated and relocated as section 459(i) (42 U.S.C. 659(i)).

(13)(A) Section 462 (42 U.S.C. 662) is amended—

(i) in subsection (e)(1), by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii); and

(ii) in subsection (e), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B).

(B) Section 459 (42 U.S.C. 659) is amended by adding at the end the following:

''(j) DEFINITIONS.—For purposes of this section—''.

(C) Subsections (a) through (e) of section 462 (42 U.S.C. 662), as amended by subparagraph (A) of this paragraph, are relocated and redesignated as paragraphs (1) through (4), respectively of section 459(j) (as added by subparagraph (B) of this paragraph, (42 U.S.C. 659(j)), and the left margin of each of such paragraphs (1) through (4) is indented 2 ems to the right of the left margin of subsection (i) (as added by paragraph (12) of this subsection).

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661), as amended by subsection (a) of this section, are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking ''sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)'' and inserting ''section 459 of the Social Security Act (42 U.S.C. 659)''.

(c) MILITARY RETIRED AND RETAINER PAY.—(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding after subparagraph (C) the following new paragraph:

''(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a State program under

part D of title IV of the Social Security Act).'';

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended by inserting ''or a court order for the payment of child support not included in or accompanied by such a decree or settlement,'' before ''which—''.

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by striking ''to spouse'' and inserting ''to (or for benefit of)''; and

(B) in paragraph (1), in the first sentence, by inserting ''(or for the benefit of such spouse or former spouse to a State central collections unit or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)'' before ''in an amount sufficient''.

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

''(j) RELATIONSHIP TO OTHER LAWS.—In any case involving a child support order against a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of the Social Security Act.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection:

(A) The term ''court'' has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term ''child support'' has the meaning given such term in section 462 of the Social Security Act (42 U.S.C. 662).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection (i):

''(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order or an order of an administrative process established under State law for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.''.

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the first sentence the following: ''In the case of a spouse or former spouse who, pursuant to section 403(b)(1)(E)(i) of the Social Security Act, assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.''.

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

''(6) In the case of a court order or an order of an administrative process established under State law for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisy the amount of child support set forth in a court order or an order of an administrative process established under State law shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.''.

SEC. 9465. MOTOR VEHICLE LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended—

(1) by striking ''(4) Procedures'' and inserting the following:

''(4) LIENS.—

''(A) IN GENERAL.—Procedures''; and

(2) by adding at the end the following new subparagraph:

''(B) MOTOR VEHICLE LIENS.—Procedures for placing liens for arrears of child support on motor vehicle titles of individuals owing such arrears equal to or exceeding two months of support, under which—

''(i) any person owed such arrears may place such a lien;

''(ii) the State agency administering the program under this part shall systematically place such liens;

''(iii) expedited methods are provided for—

''(I) ascertaining the amount of arrears;

''(II) affording the person owing the arrears or other titleholder to contest the amount of arrears or to obtain a release upon fulfilling the support obligation;

''(iv) such a lien has precedence over all other encumbrances on a vehicle title other than a purchase money security interest; and

''(v) the individual or State agency owed the arrears may execute on, seize, and sell the property in accordance with State law.''.

SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, and 9442 of this Act, is amended by inserting after paragraph (15) the following:

''(16) FRAUDULENT TRANSFERS.—Procedures under which—

''(A) the State has in effect—

''(i) the Uniform Fraudulent Conveyance Act of 1981,

''(ii) the Uniform Fraudulent Transfer Act of 1984, or

''(iii) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

''(B) in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

''(i) seek to void such transfer; or

''(ii) obtain a settlement in the best interests of the child support creditor.''.

SEC. 9467. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, and 9466 of this Act, is amended by inserting after paragraph (16) the following:

''(17) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of driver's licenses, and professional and occupational licenses of individuals owing overdue child support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.''.

SEC. 9468. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

''(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—(A) Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any absent parent who is delinquent by 90 days or more in the payment of support, and the amount of overdue support owed by such parent.

''(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent parent is reported—

''(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

''(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency.''.

SEC. 9469. EXTENDED STATUTE OF LIMITATION FOR COLLECTION OF ARREARAGES.

(a) AMENDMENTS.—Section 466(a)(9) (42 U.S.C. 666(a)(9)) is amended—

(1) by striking ''(9) Procedures'' and inserting the following:

''(9) LEGAL TREATMENT OF ARREARS.—

''(A) FINALITY.—Procedures'';

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by indenting each of such clauses 2 additional ems to the right; and

(3) by adding after and below subparagraph (A), as redesignated, the following new subparagraph:

''(B) STATUTE OF LIMITATIONS.—Procedures under which the statute of limitations on any arrearages of child support extends at least until the child owed such support is 30 years of age.''.

(b) APPLICATION OF REQUIREMENT.—The amendment made by this section shall not be read to require any State law to revive any payment obligation which had lapsed prior to the effective date of such State law.

SEC. 9470. CHARGES FOR ARREARAGES.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, and 9467 of this Act, is amended by inserting after paragraph (17) the following:

''(18) CHARGES FOR ARREARAGES.—Procedures providing for the calculation and collection of interest or penalties for arrearages of child support, and for distribution of such interest or penalties collected for the benefit of the child (except where the right to support has been assigned to the State).''.

(b) REGULATIONS.—The Secretary of Health and Human Services shall establish by regulation a rule to resolve choice of law conflicts arising in the implementation of the amendment made by subsection (a).

(c) CONFORMING AMENDMENT.—Section 454(21) (42 U.S.C. 654(21)) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to arrearages accruing on or after October 1, 1998.

SEC. 9471. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by sections 9415(a)(3) and 9417 of this Act, is amended by adding at the end the following new subsection:

''(l) CERTIFICATIONS FOR PURPOSES OF PASSPORT RESTRICTIONS.—

''(1) IN GENERAL.—Where the Secretary receives a certification by a State agency in accordance with the requirements of section 454(28) that an individual owes arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 9471(b) of the Omnibus Budget Reconciliation Act of 1995.

''(2) LIMIT ON LIABILITY.—The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.''.

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), and 9422(a) of this Act, is amended—

(A) by striking ''and'' at the end of paragraph (26);

(B) by striking the period at the end of paragraph (27) and inserting ''; and''; and

(C) by adding after paragraph (27) the following new paragraph:

''(28) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(l) (concerning denial of passports) determinations that individuals owe arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, under which procedure—

''(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

''(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.''.

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(1) IN GENERAL.—The Secretary of State, upon certification by the Secretary of Health and Human Services, in accordance with section 452(l) of the Social Security Act, that an individual owes arrearages of child support in excess of $5,000, shall refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(2) LIMIT ON LIABILITY.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 9472. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) SENSE OF THE CONGRESS THAT THE UNITED STATES SHOULD RATIFY THE UNITED NATIONS CONVENTION OF 1956.—It is the sense of the Congress that the United States should ratify the United Nations Convention of 1956.

(b) TREATMENT OF INTERNATIONAL CHILD SUPPORT CASES AS INTERSTATE CASES.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), 9422(a), and 9471(a)(2) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting ''; and''; and

(3) by inserting after paragraph (28) the following:

''(29) provide that the State must treat international child support cases in the same manner as the State treats interstate child support cases.''.

SEC. 9473. SEIZURE OF LOTTERY WINNINGS, SETTLEMENTS, PAYOUTS, AWARDS, AND BEQUESTS, AND SALE OF FORFEITED PROPERTY, TO PAY CHILD SUPPORT ARREARAGES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, and 9470(a) of this Act, is amended by inserting after paragraph (18) the following:

''(19) Procedures, in addition to other income withholding procedures, under which a lien is imposed against property with the following effect:

''(A) The person required to make a payment under a policy of insurance or a settlement of a claim made with respect to the policy shall—

''(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

''(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

''(B) The payor of any amount pursuant to an award, judgment, or settlement in any action brought in Federal or State court shall—

''(i) suspend the payment of the amount until an inquiry is made to and a response is received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

''(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

''(C) If the State seizes property forfeited to the State by an individual by reason of a criminal conviction, the State shall—

''(i) hold the property until an inquiry is made to and a response is received from the agency as to whether the individual owes a child support arrearage; and

''(ii) if there is such an arrearage, sell the property and, after satisfying the claims of all other private or public claimants to the property and deducting from the proceeds of the sale the attendant costs (such as for towing, storage, and the sale), pay the lesser of the remaining proceeds or the amount of the arrearage directly to the agency for distribution.

''(D) Any person required to make a payment in respect of a decedent shall—

''(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

''(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.''.

SEC. 9474. LIABILITY OF GRANDPARENTS FOR FINANCIAL SUPPORT OF CHILDREN OF THEIR MINOR CHILDREN.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, 9470(a), and 9473 of this Act, is amended by inserting after paragraph (19) the following:

''(20) Procedures under which each parent of an individual who has not attained 18 years of age is liable for the financial support of any child of the individual to the extent that the individual is unable to provide such support. The preceding sentence shall not apply to the State if the State plan explicitly provides for such inapplicability.''.

SEC. 9475. SENSE OF THE CONGRESS REGARDING PROGRAMS FOR NONCUSTODIAL PARENTS UNABLE TO MEET CHILD SUPPORT OBLIGATIONS.

It is the sense of the Congress that the States should develop programs, such as the program of the State of Wisconsin known as the ''Children's First Program'', that are designed to work with noncustodial parents who are unable to meet their child support obligations.

CHAPTER 8—MEDICAL SUPPORT

SEC. 9481. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking ''issued by a court of competent jurisdiction'';

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

''if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued by an administrative adjudicator and has the force and effect of law under applicable State law.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such first plan year, the plan is operated in accordance with the requirements of the amendments made by this section, and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

CHAPTER 9—FOOD STAMP PROGRAM REQUIREMENTS

SEC. 9491. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended adding at the end the following:

''(i) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

''(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

''(A) in establishing the paternity of the child (if the child is born out of wedlock); and

''(B) in obtaining support for—

''(i) the child; or

''(ii) the individual and the child.

''(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

''(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

''(j) NON-CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

''(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

''(A) in establishing the paternity of the child (if the child is born out of wedlock); and

''(B) in providing support for the child.

''(2) REFUSAL TO COOPERATE.—

''(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

''(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

''(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

''(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.''.

SEC. 9492. DISQUALIFICATION FOR CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 9491 of this Act, is amended by adding at the end the following:

''(k) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

''(1) IN GENERAL.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

''(A) a court is allowing the individual to delay payment; or

''(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.''.

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 9498. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) provisions of this title requiring enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this title shall become effective upon enactment.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this title shall become effective with respect to a State on the later of—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this title if it is unable to comply without amending the State constitution until the earlier of—

(1) the date one year after the effective date of the necessary State constitutional amendment, or

(2) the date five years after enactment of this title.

SEC. 9499. SEVERABILITY.

If any provision of this title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this title which can be given effect without regard to the invalid provision or application, and to this end the provisions of this title shall be severable.

Subtitle E—Teen Pregnancy And Family Stability

SEC. 9501. STATE OPTION TO DENY TEMPORARY EMPLOYMENT ASSISTANCE FOR ADDITIONAL CHILDREN.

(a) IN GENERAL.—Section 402(d)(1), as added by section 9101(a) of this Act, is amended—

(1) by striking ''(1) DETERMINATION OF NEED.—'' and inserting the following:

''(1) DETERMINATION OF NEED.—

''(A) IN GENERAL.—''; and

(2) by adding at the end the following:

''(B) OPTIONAL DENIAL OF ASSISTANCE TO FAMILIES HAVING ADDITIONAL CHILDREN WHILE RECEIVING ASSISTANCE.—At the option of the State, the State plan may provide that—

''(i)(I) a child shall not be considered a needy child if the child is born (other than as a result of rape or incest) to a member of a family—

''(aa) while the family was a recipient of assistance under the State plan; or

''(bb) during the 6-month period ending with the date the family applied for such assistance; and

''(II) if the value of assistance to a family under the State plan approved under this part is reduced by reason of subclause (I), each member of the family shall be considered to be receiving such assistance for purposes of eligibility for medical assistance under the State plan approved under title XIX for so long as assistance to the family under the State plan approved under this part would otherwise not be so reduced; and

''(ii) if the State exercises the option, the State may provide the family with vouchers, in amounts not exceeding the amount of any such reduction in assistance, that may be used only to pay for particular goods and services specified by the State as suitable for the care of the child of the parent (such as diapers, clothing, or school supplies).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9502. SUPERVISED LIVING ARRANGEMENTS FOR MINORS.

(a) IN GENERAL.—Section 402(c), as added by section 9101(a) of this Act, is amended by adding at the end the following:

''(8) SUPERVISED LIVING ARRANGEMENTS FOR MINORS.—The State plan shall provide that—

''(A) except as provided in subparagraph (B), in the case of any individual who is under age 18 and has never married, and who has a needy child in his or her care (or is pregnant and is eligible for temporary employment assistance under the State plan)—

''(i) such individual may receive such assistance for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home; and

''(ii) such assistance (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual and child; and

''(B)(i) in the case of an individual described in clause (ii)—

''(I) the State agency shall assist such individual in locating an appropriate adult-supervised supportive living arrangement taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual (and child, if any) reside in such living arrangement as a condition of the continued receipt of assistance under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate), or

''(II) if the State agency is unable, after making diligent efforts, to locate any such appropriate living arrangement, the State agency shall provide for comprehensive case management, monitoring, and other social services consistent with the best interests of the individual (and child) while living independently (as determined by the State agency); and

''(ii) for purposes of clause (i), an individual is described in this clause if—

''(I) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

''(II) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

''(III) the State agency determines that the physical or emotional health of such individual or any needy child of the individual would be jeopardized if such individual and such needy child lived in the same residence with such individual's own parent or legal guardian; or

''(IV) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that it is in the best interest of the needy child to waive the requirement of subparagraph (A) with respect to such individual.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9503. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

(a) IN GENERAL.—Title XX (42 U.S.C. 1397–1397f), as amended by section 9205(b) of this Act, is amended by adding at the end the following:

''SEC. 2010. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

''(a) NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.—

''(1) ESTABLISHMENT.—The responsible Federal officials shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to adolescent pregnancy prevention programs, to be known as the 'National Clearinghouse on Adolescent Pregnancy Prevention Programs'.

''(2) FUNCTIONS.—The national center established under paragraph (1) shall serve as a national information and data clearinghouse, and as a training, technical assistance, and material development source for adolescent pregnancy prevention programs. Such center shall—

''(A) develop and maintain a system for disseminating information on all types of adolescent pregnancy prevention programs and on the state of adolescent pregnancy prevention program development, including information concerning the most effective model programs;

''(B) develop and sponsor a variety of training institutes and curricula for adolescent pregnancy prevention program staff;

''(C) identify model programs representing the various types of adolescent pregnancy prevention programs;

''(D) develop technical assistance materials and activities to assist other entities in establishing and improving adolescent pregnancy prevention programs;

''(E) develop networks of adolescent pregnancy prevention programs for the purpose of sharing and disseminating information; and

''(F) conduct such other activities as the responsible Federal officials find will assist in developing and carrying out programs or activities to reduce adolescent pregnancy.

''(b) FUNDING.—The responsible Federal officials shall make grants to eligible entities for the establishment and operation of a National Clearinghouse on Adolescent Pregnancy Prevention Programs under subsection (a) so that in the aggregate the expenditures for such grants do not exceed $2,000,000 for fiscal year 1996, $4,000,000 for fiscal year 1997, $8,000,000 for fiscal year 1998, and $10,000,000 for fiscal year 1999 and each subsequent fiscal year.

''(c) DEFINITIONS.—As used in this section:

''(1) ADOLESCENTS.—The term 'adolescents' means youth who are ages 10 through 19.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a partnership that includes—

''(A) a local education agency, acting on behalf of one or more schools, together with

''(B) one or more community-based organizations, institutions of higher education, or public or private agencies or organizations.

''(3) ELIGIBLE AREA.—The term 'eligible area' means a school attendance area in which—

''(A) at least 75 percent of the children are from low-income families as that term is used in part A of title I of the Elementary and Secondary Education Act of 1965; or

''(B) the number of children receiving assistance under a State plan approved under part A of title IV of this Act is substantial as determined by the responsible Federal officials; or

''(C) the unmarried adolescent birth rate is high, as determined by the responsible Federal officials.

''(4) SCHOOL.—The term 'school' means a public elementary, middle, or secondary school.

''(5) RESPONSIBLE FEDERAL OFFICIALS.—The term 'responsible Federal officials' means the Secretary of Education, the Secretary of Health and Human Services, and the Chief Executive Officer of the Corporation for National and Community Service.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective January 1, 1996.

SEC. 9504. REQUIRED COMPLETION OF HIGH SCHOOL OR OTHER TRAINING FOR TEENAGE PARENTS.

(a) IN GENERAL.—Section 403(b)(1)(D), as added by section 9101(a) of this Act, is amended—

(1) by inserting ''(i)'' after ''(D)''; and

(2) by adding at the end the following:

''(ii) in the case of a client who is a custodial parent who is under age 18 (or age 19, at the option of the State), has not successfully completed a high-school education (or its equivalent), and is required to participate in the Work First program (including an individual who would otherwise be exempt from participation in the program), shall provide that—

''(I) such parent participate in—

''(aa) educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis; or

''(bb) an alternative educational or training program on a full-time (as defined by the provider) basis; and

''(II) child care be provided in accordance with section 2009 with respect to the family.''.

(b) STATE OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.—

(1) STATE PLAN.—Section 403(b)(1)(D), as amended by subsection (a) of this section, is amended by adding at the end the following:

''(iii) at the option of the State, may provide that the client who is a custodial parent or pregnant woman who is under age 19 (or age 21, at the option of the State) participate in a program of monetary incentives and penalties which—

''(I) may, at the option of the State, require full-time participation by such custodial parent or pregnant woman in secondary school or equivalent educational activities, or participation in a course or program leading to a skills certificate found appropriate by the State agency or parenting education activities (or any combination of such activities and secondary education);

''(II) shall require that the needs of such custodial parent or pregnant woman be reviewed and the program assure that, either in the initial development or revision of such individual's individual responsibility plan, there will be included a description of the services that will be provided to the client and the way in which the program and service providers will coordinate with the educational or skills training activities in which the client is participating;

''(III) shall provide monetary incentives (to be treated as assistance under the State plan) for more than minimally acceptable performance of required educational activities;

''(IV) shall provide penalties (which may be those required by subsection (e) or, with the approval of the Secretary, other monetary penalties that the State finds will better achieve the objectives of the program) for less than minimally acceptable performance of required activities;

''(V) shall provide that when a monetary incentive is payable because of the more than minimally acceptable performance of required educational activities by a custodial parent, the incentive be paid directly to such parent, regardless of whether the State agency makes payment of assistance under the State plan directly to such parent; and

''(VI) for purposes of any other Federal or federally-assisted program based on need, shall not consider any monetary incentive paid under the State plan as income in determining a family's eligibility for or amount of benefits under such program, and if assistance is reduced by reason of a penalty under this clause, such other program shall treat the family involved as if no such penalty has been applied.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9505. DENIAL OF FEDERAL HOUSING BENEFITS TO MINORS WHO BEAR CHILDREN OUT-OF-WEDLOCK.

(a) PROHIBITION OF ASSISTANCE.—Notwithstanding any other provision of law, a household whose head of household is an individual who has borne a child out-of-wedlock before attaining 18 years of age may not be provided Federal housing assistance for a dwelling unit until attaining such age, unless—

(1) after the birth of the child—

(A) the individual marries an individual who has been determined by the relevant State to be the biological father of the child; or

(B) the biological parent of the child has legal custody of the child and marries an individual who legally adopts the child;

(2) the individual is a biological and custodial parent of another child who was not born out-of-wedlock; or

(3) eligibility for such Federal housing assistance is based in whole or in part on any disability or handicap of a member of the household.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) COVERED PROGRAM.—The term ''covered program'' means—

(A) the program of rental assistance on behalf of low-income families provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(B) the public housing program under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

(C) the program of rent supplement payments on behalf of qualified tenants pursuant to contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

(D) the program of interest reduction payments pursuant to contracts entered into by the Secretary of Housing and Urban Development under section 236 of the National Housing Act (12 U.S.C. 1715z–1);

(E) the program for mortgage insurance provided pursuant to sections 221(d) (3) or (4) of the National Housing Act (12 U.S.C. 1715l(d)) for multifamily housing for low- and moderate-income families;

(F) the rural housing loan program under section 502 of the Housing Act of 1949 (42 U.S.C. 1472);

(G) the rural housing loan guarantee program under section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h));

(H) the loan and grant programs under section 504 of the Housing Act of 1949 (42 U.S.C. 1474) for repairs and improvements to rural dwellings;

(I) the program of loans for rental and cooperative rural housing under section 515 of the Housing Act of 1949 (42 U.S.C. 1485);

(J) the program of rental assistance payments pursuant to contracts entered into under section 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)(A));

(K) the loan and assistance programs under sections 514 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1486) for housing for farm labor;

(L) the program of grants and loans for mutual and self-help housing and technical assistance under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c);

(M) the program of grants for preservation and rehabilitation of housing under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m); and

(N) the program of site loans under section 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

(2) COVERED PROJECT.—The term ''covered project'' means any housing for which Federal housing assistance is provided that is attached to the project or specific dwelling units in the project.

(3) FEDERAL HOUSING ASSISTANCE.—The term ''Federal housing assistance'' means—

(A) assistance provided under a covered program in the form of any contract, grant, loan, subsidy, cooperative agreement, loan or mortgage guarantee or insurance, or other financial assistance; or

(B) occupancy in a dwelling unit that is—

(i) provided assistance under a covered program; or

(ii) located in a covered project and subject to occupancy limitations under a covered program that are based on income.

(4) STATE.—The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(c) LIMITATIONS ON APPLICABILITY.—Subsection (a) shall not apply to Federal housing assistance provided for a household pursuant to an application or request for such assistance made by such household before the effective date of this Act if the household was receiving such assistance on the effective date of this Act.

SEC. 9506. STATE OPTION TO DENY TEMPORARY EMPLOYMENT ASSISTANCE TO MINOR PARENTS.

(a) IN GENERAL.—Section 402(d)(1), as added by section 9101(a) of this Act and as amended by section 9501(a) of this Act, is amended by adding at the end the following:

''(C) OPTIONAL DENIAL OF ASSISTANCE TO MINOR PARENTS.—At the option of the State, the State plan may provide that—

''(i)(I) in determining the need of a family, the State may disregard the needs of any family member who is a parent and has not attained 18 years of age or such lesser age as the State may prescribe; and

''(II) if the value of the assistance provided to a family under the State plan approved under this part is reduced by reason of subclause (I), each member of the family shall be considered to be receiving such assistance for purposes of eligibility for medical assistance under the State plan approved under title XIX for so long as such assistance under the State plan approved under this part would otherwise not be so reduced; and

''(ii) if the State exercises the option, the State may provide the family with vouchers, in amounts not exceeding the value of any such reduction in assistance, that may be used only to pay for—

''(I) particular goods and services specified by the State as suitable for the care of the child of the parent (such as diapers, clothing, or cribs); and

''(II) the costs associated with a maternity home, foster home, or other adult-supervised supportive living arrangement in which the parent and the child live.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect in the same manner in which the amendment made by section 9101(a) takes effect.

Subtitle F—SSI Reform

SEC. 9601. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

(1) in subparagraph (A), by striking ''An individual'' and inserting ''Except as provided in subparagraph (C), an individual'';

(2) in subparagraph (A), by striking ''(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)'';

(3) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

''(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.''; and

(5) in subparagraph (F), as so redesignated by paragraph (3) of this subsection, by striking ''(D)'' and inserting ''(E)''.

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) EFFECTIVE DATE; REGULATIONS; APPLICATION TO CURRENT RECIPIENTS.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) REGULATIONS.—The Commissioner of Social Security shall issue such regulations as the Commissioner determines to be necessary to implement the amendments made by subsections (a) and (b) not later than 60 days after the date of the enactment of this Act.

(3) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the amendments made by subsection (a) or (b). With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The amendments made by subsections (a) and (b), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

SEC. 9602. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act, is amended—

(1) by inserting ''(i)'' after ''(H)''; and

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

''(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or,

which is unlikely to improve, at the option of the Commissioner).

''(II) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.''.

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

''(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

''(I) during the 1-year period beginning on the individual's 18th birthday; and

''(II) by applying the criteria used in determining the initial eligibility for applicants who have attained the age of 18 years.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.''.

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsections (a) and (b) of this section, is amended by adding at the end the following new clause:

''(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

''(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

''(III) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 9603. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) TIGHTENING OF REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) CLARIFICATION OF ROLE.—Section 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is amended by striking ''and'' at the end of subclause (II), by striking the period at the end of subclause (IV) and inserting ''; and'', and by adding after subclause (IV) the following new subclause:

''(V) advise such person through the notice of award of benefits, and at such other times as the Commissioner of Social Security deems appropriate, of specific examples of appropriate expenditures of benefits under this title and the proper role of a representative payee.''.

(2) DOCUMENTATION OF EXPENDITURES REQUIRED.—

(A) IN GENERAL.—Subparagraph (C)(i) of section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended to read as follows:

''(C)(i) In any case where payment is made to a representative payee of an individual or spouse, the Commissioner of Social Security shall—

''(I) require such representative payee to document expenditures and keep contemporaneous records of transactions made using such payment; and

''(II) implement statistically valid procedures for reviewing a sample of such contemporaneous records in order to identify instances in which such representative payee is not properly using such payment.''.

(B) CONFORMING AMENDMENT WITH RESPECT TO PARENT PAYEES.—Clause (ii) of section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by striking ''Clause (i)'' and inserting ''Subclauses (II) and (III) of clause (i)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to benefits paid after the date of the enactment of this Act.

(b) DEDICATED SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended by adding at the end the following:

''(xiv) Notwithstanding clause (x), the Commissioner of Social Security may, at the request of the representative payee, pay any lump sum payment for the benefit of a child into a dedicated savings account that could only be used to purchase for such child—

''(I) education and job skills training;

''(II) special equipment or housing modifications or both specifically related to, and required by the nature of, the child's disability; and

''(III) appropriate therapy and rehabilitation.''.

(2) DISREGARD OF TRUST FUNDS.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(A) by striking ''and'' at the end of paragraph (10),

(B) by striking the period at the end of paragraph (11) and inserting ''; and'', and

(C) by inserting after paragraph (11) the following:

''(12) all amounts deposited in, or interest credited to, a dedicated savings account described in section 1631(a)(2)(B)(xiv).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

SEC. 9604. DENIAL OF SSI BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 9601(a)(3) of this Act, is amended by adding at the end the following:

''(J) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1613(a)(12) (42 U.S.C. 1382b(a)(12)) is amended by striking ''1631(a)(2)(B)(xiv)'' and inserting ''1631(a)(2)(B)(xiii)''.

(3) Section 1631(a)(2)(A)(ii) (42 U.S.C. 1383(a)(2)(A)(ii)) is amended—

(A) by striking ''(I)''; and

(B) by striking subclause (II).

(4) Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended—

(A) by striking clause (vii);

(B) in clause (viii), by striking ''(ix)'' and inserting ''(viii)'';

(C) in clause (ix)—

(i) by striking ''(viii)'' and inserting ''(vii)''; and

(ii) in subclause (II), by striking all that follows ''15 years'' and inserting a period;

(D) in clause (xiii)—

(i) by striking ''(xii)'' and inserting ''(xi)''; and

(ii) by striking ''(xi)'' and inserting ''(x)'';

(E) in clause (xiv) (as added by section 9603(b)(1) of this Act), by striking ''(x)'' and inserting ''(ix)''; and

(F) by redesignating clauses (viii) through (xiv) as clauses (vii) through (xiii), respectively.

(5) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking all that follows ''$25.00 per month'' and inserting a period.

(6) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(7) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—

(A) by striking ''—'' and all that follows through ''(A)'' the 1st place such term appears;

(B) by striking ''and'' the 3rd place such term appears;

(C) by striking subparagraph (B);

(D) by striking ''either subparagraph (A) or subparagraph (B)'' and inserting ''the preceding sentence''; and

(E) by striking ''subparagraph (A) or (B)'' and inserting ''the preceding sentence''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995, and shall apply with respect to months beginning on or after such date.

(d) FUNDING OF CERTAIN PROGRAMS FOR DRUG ADDICTS AND ALCOHOLICS.—Out of any money in the Treasury of the United States not otherwise appropriated, the Secretary of the Treasury shall pay to the Director of the National Institute on Drug Abuse—

(1) $95,000,000, for each of fiscal years 1997, 1998, 1999, and 2000, for expenditure through the Federal Capacity Expansion Program to expand the availability of drug treatment; and

(2) $5,000,000 for each of fiscal years 1997, 1998, 1999, and 2000 to be expended solely on the medication development project to improve drug abuse and drug treatment research.

SEC. 9605. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following:

''(5) An individual shall not be considered an eligible individual for purposes of this title during the 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States under programs that are funded under part A of title IV, or title XIX of this Act, the consolidated program of food assistance under chapter 2 of subtitle E of title XIV of the Omnibus Budget Reconciliation Act of 1995, or the Food Stamp Act of 1977 (as in effect before the effective

date of such chapter), or benefits in 2 or more States under the supplemental security income program under title XVI of this Act.''.

SEC. 9606. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 9604(b)(1) of this Act, is amended by inserting after paragraph (2) the following:

''(3) A person shall not be an eligible individual or eligible spouse for purposes of this title with respect to any month if, throughout the month, the person is—

''(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

''(B) violating a condition of probation or parole imposed under Federal or State law.''.

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following:

''(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of benefits under this title, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

''(A) the recipient—

''(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;

''(ii) is violating a condition of probation or parole imposed under Federal or State law; or

''(iii) has information that is necessary for the officer to conduct the officer's official duties;

''(B) the location or apprehension of the recipient is within the official duties of the officer; and

''(C) the request is made in the proper exercise of such duties.''.

SEC. 9607. REAPPLICATION REQUIREMENTS FOR ADULTS RECEIVING SSI BENEFITS BY REASON OF DISABILITY.

(a) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by section 9602 of this Act, is amended by adding at the end the following:

''(v) In the case of an individual who has attained 18 years of age and for whom a determination has been made of eligibility for a benefit under this title by reason of disability, the following applies:

''(I) Subject to the provisions of this clause, the determination of eligibility is effective for the 3-year period beginning on the date of the determination, and the eligibility of the individual lapses unless a determination of continuing eligibility is made before the end of such period, and before the end of each subsequent 3-year period. This subclause ceases to apply to the individual upon the individual attaining 65 years of age. This subclause does not apply to the individual if the individual has an impairment that is not expected to improve (or a combination of impairments that are not expected to improve).

''(II) With respect to a determination under subclause (I) of whether the individual continues to be eligible for the benefit (in this clause referred to as a 'redetermination'), the Commissioner may not make the redetermination unless the individual submits to the Commissioner an application requesting the redetermination. If such an application is submitted, the Commissioner shall make the redetermination. This subclause is subject to subclause (V).

''(III) If as of the date on which this clause takes effect the individual has been receiving the benefit for three years or less, the first period under subclause (I) for the individual is deemed to end on the expiration of the period beginning on the date on which this clause takes effect and continuing through a number of months equal to 12 plus a number equal to 36 minus the number of months the individual has been receiving the benefit.

''(IV) If as of the date on which this clause takes effect the individual has been receiving the benefit for five years or less, but for more than three years, the first period under subclause (I) for the individual is deemed to end on the expiration of the 1-year period beginning on the date on which this clause takes effect.

''(V) If as of the date on which this clause takes effect the individual has been receiving the benefit for more than five years, the Commissioner shall make redeterminations under subclause (I) and may not require the individual to submit applications for the redeterminations. The first 3-year period under subclause (I) for the individual is deemed to begin upon the expiration of the period beginning on the date on which this clause takes effect and ending upon the termination of a number of years equal to the lowest number (greater than zero) that can be obtained by subtracting the number of years that the individual has been receiving the benefit from a number that is a multiple of three.

''(VI) If the individual first attains 18 years of age on or after the date on which this clause takes effect, the first 3-year period under subclause (I) for the individual is deemed to end on the date on which the individual attains such age.

''(VII) Not later than one year prior to the date on which a determination under subclause (I) expires, the Commissioner shall (except in the case of an individual to whom subclause (V) applies) provide to the individual a written notice explaining the applicability of this clause to the individual, including an explanation of the effect of failing to submit the application. If the individual submits the application not later than 180 days prior to such date and the Commissioner does not make the redetermination before such date, the Commissioner shall continue to provide the benefit pending the redetermination and shall publish in the Federal Register a notice that the Commissioner was unable to make the redetermination by such date.

''(VIII) If the individual fails to submit the application under subclause (II) by the end of the applicable period under subclause (I), the individual may apply for a redetermination. The Commissioner shall make the redetermination for the individual only after making redeterminations for individuals for whom eligibility has not lapsed pursuant to subclause (I).''.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For redeterminations of eligibility pursuant to section 1614(a)(3)(H)(v) of the Social Security Act, there are authorized to be appropriated to the Commissioner of Social Security not more than $100,000,000 for fiscal years 1996 through 2000.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect upon the expiration of the 9-month period beginning on the date of the enactment of this Act.

SEC. 9608. REDUCTION IN UNEARNED INCOME EXCLUSION.

(a) IN GENERAL.—Section 1612(b)(3)(A) (42 U.S.C. 1382a(b)(3)(A)) is amended by striking ''$20'' and inserting ''$15''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits for months beginning after December 31, 1995.

Subtitle G—Food Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 9701. APPLICATION OF AMENDMENTS.

The amendments made by this chapter shall not apply with respect to certification periods beginning before the effective date of this chapter.

SEC. 9702. AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

(a) CERTIFICATION PERIOD.—(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended to read as follows:

''(c) 'Certification period' means the period specified by the State agency for which households shall be eligible to receive authorization cards, except that such period shall be—

''(1) 24 months for households in which all adult members are elderly or disabled; and

''(2) not more than 12 months for all other households.''.

(2) Section 6(c)(1)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)(C)) is amended—

(A) in clause (ii) by adding ''and'' at the end;

(B) in clause (iii) by striking ''; and'' at the end and inserting a period; and

(C) by striking clause (iv).

(b) ENERGY ASSISTANCE COUNTED AS INCOME.—

(1) LIMITING EXCLUSION.—Section 5(d)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(11)) is amended—

(A) by striking ''(A) under any Federal law, or (B)''; and

(B) by inserting before the comma at the end the following: '', except that no benefits provided under the State program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall be excluded under this clause''.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking the ninth through the twelfth sentences.

(B) Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended by striking subparagraph (C) and redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

(C) Section 5(k) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)) is amended by adding at the end the following:

''(4) For purposes of subsection (d)(1), any payments or allowances made under any Federal or State law for the purposes of energy assistance shall be treated as money payable directly to the household.''.

(D) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8634(f)) is amended—

(i) in paragraph (1), by striking ''food stamps'';

(ii) by striking ''(f)(1) Notwithstanding'' and inserting ''(f) Notwithstanding''; and

(iii) by striking paragraph (2).

(c) EXCLUSION OF CERTAIN JTPA INCOME.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (d)—

(A) by striking ''and (16)'' and inserting ''(16)''; and

(B) by inserting before the period at the end the following: '', and (17) income received under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) by a household member who is less than 19 years of age''; and

(2) in subsection (*l*), by striking ''under section 204(b)(1)(C)'' and all that follows and inserting ''shall be considered earned income for purposes of the food stamp program.''.

(d) EXCLUSION OF LIFE INSURANCE POLICIES.—Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

''(6) The Secretary shall exclude from financial resources the cash value of any life insurance policy owned by a member of a household.''.

(e) IN-TANDEM EXCLUSIONS FROM INCOME.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end the following:

''(n) Whenever a Federal statute enacted after the date of the enactment of this Act excludes funds from income for purposes of determining eligibility, benefit levels, or both under State plans approved under part A of title IV of the Social Security Act, then such funds shall be excluded from income for purposes of determining eligibility, benefit levels, or both, respectively, under the food stamp program of households all of whose members receive benefits under a State plan approved under part A of title IV of the Social Security Act.''.

SEC. 9703. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: ''The Secretary is authorized to issue regulations establishing specific time periods during which authorization to accept and redeem coupons under the food stamp program shall be valid.''.

SEC. 9704. SPECIFIC PERIOD FOR PROHIBITING PARTICIPATION OF STORES BASED ON LACK OF BUSINESS INTEGRITY.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)), as amended by section 9703, is amended by adding at the end the following: ''The Secretary is authorized to issue regulations establishing specific time periods during which a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied or that has such an approval withdrawn on the basis of business integrity and reputation cannot submit a new application for approval. Such periods shall reflect the severity of business integrity infractions that are the basis of such denials or withdrawals.''.

SEC. 9705. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence by inserting '', which may include relevant income and sales tax filing documents,'' after ''submit information'' ; and

(2) by inserting after the first sentence the following: ''The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources in order that the accuracy of information provided by such stores and concerns may be verified.''.

SEC. 9706. WAITING PERIOD FOR STORES THAT INITIALLY FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: ''Regulations issued pursuant to this Act shall prohibit a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied because it does not meet criteria for approval established by the Secretary in regulations from submitting a new application for six months from the date of such denial.''.

SEC. 9707. BASES FOR SUSPENSIONS AND DISQUALIFICATIONS.

Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)) is amended by adding at the end the following: ''Regulations issued pursuant to this Act shall provide criteria for the finding of violations and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence which may include, but is not limited to, facts established through on-site investigations, inconsistent redemption data, or evidence obtained through transaction reports under electronic benefit transfer systems.''.

SEC. 9708. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)), as amended by section 9707, is amended by adding at the end the following: ''Such regulations may establish criteria under which the authorization of a retail food store or wholesale food concern to accept and redeem coupons may be suspended at the time such store or concern is initially found to have committed violations of program requirements. Such suspension may coincide with the period of a review as provided in section 14. The Secretary shall not be liable for the value of any sales lost during any suspension or disqualification period.''.

(b) Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) in the first sentence by inserting ''suspended,'' before ''disqualified or subjected'';

(2) in the fifth sentence by inserting before the period at the end the following: '', except that in the case of the suspension of a retail food store or wholesale food concern pursuant to section 12(a), such suspension shall remain in effect pending any administrative or judicial review of the proposed disqualification action, and the period of suspension shall be deemed a part of any period of disqualification which is imposed.''; and

(3) by striking the last sentence.

SEC. 9709. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED FROM THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

''(g) The Secretary shall issue regulations providing criteria for the disqualification of approved retail food stores and wholesale food concerns that are otherwise disqualified from accepting benefits under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) authorized under section 17 of the Child Nutrition Act of 1966. Such disqualification—

''(1) shall be for the same period as the disqualification from the WIC Program;

''(2) may begin at a later date; and

''(3) notwithstanding section 14 of this Act, shall not be subject to administrative or judicial review.''.

SEC. 9710. PERMANENT DEBARMENT OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021), as amended by section 9709, is amended by adding at the end the following:

''(h) The Secretary shall issue regulations providing for the permanent disqualification of a retail food store or wholesale food concern that is determined to have knowingly submitted an application for approval to accept and redeem coupons which contains false information about one or more substantive matters which were the basis for providing approval. Any disqualification imposed under this subsection shall be subject to administrative and judicial review pursuant to section 14, but such disqualification shall remain in effect pending such review.''.

SEC. 9711. EXPANDED CIVIL AND CRIMINAL FORFEITURE FOR VIOLATIONS OF THE FOOD STAMP ACT.

(a) FORFEITURE OF ITEMS EXCHANGED IN FOOD STAMP TRAFFICKING.—Section 15(g) of the Food Stamp Act of 1977 (7 U.S.C. 2024(g)) is amended by striking ''or intended to be furnished''.

(b) CIVIL AND CRIMINAL FORFEITURE.—Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024)) is amended by adding at the end the following:

''(h)(1) CIVIL FORFEITURE FOR FOOD STAMP BENEFIT VIOLATIONS.—

''(A) Any food stamp benefits and any property, real or personal—

''(i) constituting, derived from, or traceable to any proceeds obtained directly or indirectly from, or

''(ii) used, or intended to be used, to commit, or to facilitate,

the commission of a violation of subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall be subject to forfeiture to the United States.

''(B) The provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures shall extend to a seizure or forfeiture under this subsection, insofar as applicable and not inconsistent with the provisions of this subsection.

''(2) CRIMINAL FORFEITURE FOR FOOD STAMP BENEFIT VIOLATIONS.—

''(A)(i) Any person convicted of violating subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall forfeit to the United States, irrespective of any State law—

''(I) any food stamp benefits and any property constituting, or derived from, or traceable to any proceeds such person obtained directly or indirectly as a result of such violation; and

''(II) any food stamp benefits and any of such person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation.

''(ii) In imposing sentence on such person, the court shall order that the person forfeit to the United States all property described in this subsection.

''(B) All food stamp benefits and any property subject to forfeiture under this subsection, any seizure and disposition thereof, and any administrative or judicial proceeding relating thereto, shall be governed by subsections (b), (c), (e), and (g) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), insofar as applicable and not inconsistent with the provisions of this subsection.

''(3) APPLICABILITY.—This subsection shall not apply to property specified in subsection (g) of this section.

''(4) RULES.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this subsection.''.

SEC. 9712. EXPANDED AUTHORITY FOR SHARING INFORMATION PROVIDED BY RETAILERS.

(a) Section 205(c)(2)(C)(iii) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(iii)) (as amended by section 316(a) of the Social Security Administrative Reform Act of 1994 (Public Law 103–296; 108 Stat. 1464) is amended—

(1) by inserting in the first sentence of subclause (II) after ''instrumentality of the

United States'' the following: '', or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)'';

(2) by inserting in the last sentence of subclause (II) immediately after ''other Federal'' the words ''or State''; and

(3) by inserting ''or a State'' in subclause (III) immediately after ''United States''.

(b) Section 6109(f)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6109(f)(2)) (as added by section 316(b) of the Social Security Administrative Reform Act of 1994 (Public Law 103–296; 108 Stat. 1464)) is amended—

(1) by inserting in subparagraph (A) after ''instrumentality of the United States'' the following: '', or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)'';

(2) in the last sentence of subparagraph (A) by inserting ''or State'' after ''other Federal''; and

(3) in subparagraph (B) by inserting ''or a State'' after ''United States''.

SEC. 9713. EXPANDED DEFINITION OF "COUPON".

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking ''or type of certificate'' and inserting ''type of certificate, authorization cards, cash or checks issued of coupons or access devices, including, but not limited to, electronic benefit transfer cards and personal identification numbers''.

SEC. 9714. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

(1) in clause (i)—

(A) by striking ''six months'' and inserting ''1 year''; and

(B) by adding ''and'' at the end; and

(2) striking clauses (ii) and (iii) and inserting the following:

''(ii) permanently upon—

''(I) the second occasion of any such determination; or

''(II) the first occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), firearms, ammunition, or explosives for coupons.''.

SEC. 9715. MANDATORY CLAIMS COLLECTION METHODS.

(a) Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting ''or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A'' before the semicolon at the end.

(b) Section 13(d) of the Food Stamp Act of 1977 (7 U.S.C. 2022(d)) is amended—

(1) by striking ''may'' and inserting ''shall''; and

(2) by inserting ''or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A'' before the period at the end.

(c) Section 6103(1) of the Internal Revenue Code (26 U.S.C. 6103(1)) is amended—

(1) by striking ''officers and employees'' in paragraph (10)(A) and inserting ''officers, employees or agents, including State agencies''; and

(2) by striking ''officers and employees'' in paragraph (10)(B) and inserting ''officers, employees or agents, including State agencies''.

SEC. 9716. PROMOTING EXPANSION OF ELECTRONIC BENEFITS TRANSFER.

Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(1)) is amended—

(1) by amending paragraph (1) to read:

''(1)(A) State agencies are encouraged to implement an on-line electronic benefit transfer system in which household benefits determined under section 8(a) are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

''(B) Subject to paragraph (2), a State agency is authorized to procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency deems appropriate.

''(C) The Secretary shall, upon request of a State agency, waive any provision of this subsection prohibiting the effective implementation of an electronic benefit transfer system consistent with the purposes of this Act. The Secretary shall act upon any request for such a waiver within 90 days of receipt of a complete application.'';

(2) in paragraph (2), by striking ''for the approval''; and

(3) in paragraph (3), by striking ''the Secretary shall not approve such a system unless'' and inserting ''the State agency shall ensure that''.

SEC. 9717. REDUCTION OF BASIC BENEFIT LEVEL.

Section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking ''and (11)'' and inserting ''(11)'';

(2) in clause (11) by inserting ''through October 1, 1994'' after ''each October 1 thereafter''; and

(3) by inserting before the period at the end the following:

'', and (12) on October 1, 1995, and on each October 1 thereafter, adjust the cost of such diet to reflect 100 percent of the cost, in the preceding June (without regard to any previous adjustment made under this clause or clauses (4) through (11) of this subsection) and round the result to the nearest lower dollar increment for each household size''.

SEC. 9718. 2-YEAR FREEZE OF STANDARD DEDUCTION.

The second sentence of section 5(e)(4) (7 U.S.C. 2014(e)(4)) is amended by inserting '', except October 1, 1995, and October 1, 1996'' after ''thereafter''.

SEC. 9719. PRO-RATING BENEFITS AFTER INTERRUPTIONS IN PARTICIPATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking ''of more than one month''.

SEC. 9720. DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491 and 9492, is amended by adding at the end the following:

''(*l*) DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.—An individual shall be ineligible to participate in the food stamp program as a member of any household during a 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual to receive benefits simultaneously from 2 or more States under—

''(1) the food stamp program;

''(2) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under title XIX of the Act (42 U.S.C. 1396 et seq.); or

''(3) the supplemental security income program under title XVI of the Act (42 U.S.C. 1381 et seq.).''.

SEC. 9721. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, and 9720, is amended by adding at the end the following:

''(m) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

''(1) IN GENERAL.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

''(A) a court is allowing the individual to delay payment; or

''(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.''.

SEC. 9722. STATE AUTHORIZATION TO ASSIST LAW ENFORCEMENT OFFICERS IN LOCATING FUGITIVE FELONS.

Section 11(e)(8)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(B)) is amended by striking ''Act, and'' and inserting ''Act or of locating a fugitive felon (as defined by a State), and''.

SEC. 9723. WORK REQUIREMENT FOR ABLE-BODIED RECIPIENTS.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, 9720, and 9721, is amended by adding at the end the following:

''(n) WORK REQUIREMENT.—

''(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

''(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

''(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

''(C) a program of employment or training operated or supervised by a State or local government, as determined appropriate by the Secretary.

''(2) WORK REQUIREMENT.—No individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12 months, the individual received food stamp benefits for not less than 6 months during which the individual did not—

''(A) work 20 hours or more per week, averaged monthly;

''(B) participate in a workfare program under section 20 or a comparable State or local workfare program;

''(C) participate in and comply with the requirements of an approved employment and training program under subsection (d)(4); or

''(D) participate in and comply with the requirements of a work program for 20 hours or more per week.

''(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—

''(A) under 18 or over 50 years of age;

''(B) medically certified as physically or mentally unfit for employment;

''(C) a parent or other member of a household with a dependent child under 18 years of age; or

''(D) otherwise exempt under subsection (d)(2).

''(4) WAIVER.—

''(A) IN GENERAL.—The Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

''(i) has an unemployment rate of over 8 percent; or

''(ii) does not have a sufficient number of jobs to provide employment for the individuals.

''(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the

House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.''.

(b) WORK AND TRAINING PROGRAMS.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following:

''(O) REQUIRED PARTICIPATION IN WORK AND TRAINING PROGRAMS.—A State agency shall provide an opportunity to participate in the employment and training program under this paragraph to any individual who would otherwise become subject to disqualification under subsection (i).

''(P) COORDINATING WORK REQUIREMENTS.—

''(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, a State agency that meets the participation requirements of clause (ii) may operate the employment and training program of the State for individuals who are members of households receiving allotments under this Act as part of a program operated by the State under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), subject to the requirements of the Act.

''(ii) PARTICIPATION REQUIREMENTS.—A State agency may exercise the option under clause (i) if the State agency provides an opportunity to participate in an approved employment and training program to an individual who is—

''(I) subject to subsection (i);

''(II) not employed at least an average of 20 hours per week;

''(III) not participating in a workfare program under section 20 (or a comparable State or local program); and

''(IV) not subject to a waiver under subsection (i)(4).''.

(c) ENHANCED EMPLOYMENT AND TRAINING PROGRAM.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A), by striking ''$75,000,000 for each of the fiscal years 1991 through 1995'' and inserting ''$150,000,000 for each of fiscal years 1996 through 2000'';

(2) by striking subparagraphs (B), (C), (E), and (F);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B) (as redesignated by paragraph (3)), by striking ''for each'' and all that follows through ''of $60,000,000'' and inserting '', the Secretary shall allocate funding''.

SEC. 9724. COORDINATION OF EMPLOYMENT AND TRAINING PROGRAMS.

Section 8(d) of the Food Stamp Act of 1977 (7 U.S.C. 2019(d)) is amended—

(1) by striking ''(d) A household'' and inserting the following:

''(d) NONCOMPLIANCE WITH OTHER WELFARE OR WORK PROGRAMS.—

''(1) IN GENERAL.—A household''; and

(2) by inserting ''or a work requirement under a welfare or public assistance program'' after ''assistance program''; and

(3) by adding at the end the following:

''(2) WORK REQUIREMENT.—If a household fails to comply with a work requirement under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), for the duration of the reduction—

''(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of a penalty imposed for the failure to comply; and

''(B) the State agency may reduce the allotment of the household by not more than 25 percent.''.

SEC. 9725. EXTENDING CURRENT CLAIMS RETENTION RATES.

Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking ''September 30, 1995'' each place it appears and inserting ''September 30, 2002''.

SEC. 9726. NUTRITION ASSISTANCE FOR PUERTO RICO.

Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended—

(1) by striking ''1994, and'' and inserting ''1994,''; and

(2) by inserting ''and $1,143,000,000 for fiscal year 1996,'' before ''to finance''.

SEC. 9727. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking ''(who are not themselves parents living with their children or married and living with their spouses)''.

CHAPTER 2—COMMODITY DISTRIBUTION

SEC. 9751. SHORT TITLE.

This chapter may be cited as the ''Commodity Distribution Act of 1995''.

SEC. 9752. AVAILABILITY OF COMMODITIES.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this chapter referred to as the ''Secretary'') is authorized during fiscal years 1996 through 2000 to purchase a variety of nutritious and useful commodities and distribute such commodities to the States for distribution in accordance with this chapter.

(b) In addition to the commodities described in subsection (a), the Secretary may expend funds made available to carry out the section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), which are not expended or needed to carry out such section, to purchase, process, and distribute commodities of the types customarily purchased under such section to the States for distribution in accordance to this chapter.

(c) In addition to the commodities described in subsections (a) and (b), agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), may be made available by the Secretary to the States for distribution in accordance with this chapter.

(d) In addition to the commodities described in subsections (a), (b), and (c), commodities acquired by the Commodity Credit Corporation that the Secretary determines, in the discretion of the Secretary, are in excess of quantities needed to—

(1) carry out other domestic donation programs;

(2) meet other domestic obligations;

(3) meet international market development and food aid commitments, and

(4) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938, the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act; shall be made available by the Secretary, without charge or credit for such commodities, to the States for distribution in accordance with this chapter.

(e) During each fiscal year, the types, varieties, and amounts of commodities to be purchased under this chapter shall be determined by the Secretary. In purchasing such commodities, except those commodities purchased pursuant to section 9760, the Secretary shall, to the extent practicable and appropriate, make purchases based on—

(1) agricultural market conditions;

(2) the preferences and needs of States and distributing agencies; and

(3) the preferences of the recipients.

SEC. 9753. STATE, LOCAL AND PRIVATE SUPPLEMENTATION OF COMMODITIES.

(a) The Secretary shall establish procedures under which State and local agencies, recipient agencies, or any other entity or person may supplement the commodities distributed under this chapter for use by recipient agencies with nutritious and wholesome commodities that such entities or persons donate for distribution, in all or part of the State, in addition to the commodities otherwise made available under this chapter.

(b) States and eligible recipient agencies may use—

(1) the funds appropriated for administrative cost under section 9759(b);

(2) equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this chapter; and

(3) the personnel, both paid or volunteer, involved in such storage, handling, or distribution; to store, handle or distribute commodities donated for use under subsection (a).

(c) States and recipient agencies shall continue, to the maximum extent practical, to use volunteer workers, and commodities and other foodstuffs donated by charitable and other organizations, in the distribution of commodities under this chapter.

SEC. 9754. STATE PLAN.

(a) A State seeking to receive commodities under this chapter shall submit a plan of operation and administration every four years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

(b) The State plan, at a minimum, shall—

(1) designate the State agency responsible for distributing the commodities received under this chapter;

(2) set forth a plan of operation and administration to expeditiously distribute commodities under this chapter in quantities requested to eligible recipient agencies in accordance with sections 9756 and 9760;

(3) set forth the standards of eligibility for recipient agencies; and

(4) set forth the standards of eligibility for individual or household recipients of commodities, which at minimum shall require—

(A) individuals or households to be comprised of needy persons; and

(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of application for assistance.

(c) The Secretary shall encourage each State receiving commodities under this chapter to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this chapter in the State.

(d) A State agency receiving commodities under this chapter may—

(1)(A) enter into cooperative agreements with State agencies of other States to jointly provide commodities received under this chapter to eligible recipient agencies that serve needy persons in a single geographical area which includes such States; or

(B) transfer commodities received under this chapter to any such eligible recipient agency in the other State under such agreement; and

(2) advise the Secretary of an agreement entered into under this subsection and the transfer of commodities made pursuant to such agreement.

SEC. 9755. ALLOCATION OF COMMODITIES TO STATES.

(a) In each fiscal year, except for those commodities purchased under section 9760, the Secretary shall allocate the commodities distributed under this chapter as follows:

(1) 60 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 60 percent of such total value as the number of persons in households within the State having incomes below the poverty line bears to the

total number of persons in households within all States having incomes below such poverty line. Each State shall receive the value of commodities allocated under this paragraph.

(2) 40 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 40 percent of such total value as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year. Each State shall receive the value of commodities allocated to the State under this paragraph.

(b)(1) The Secretary shall notify each State of the amount of commodities that such State is allotted to receive under subsection (a) or this subsection, if applicable. Each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute such commodities in a manner the Secretary deems appropriate and equitable. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year in a manner the State determines is appropriate and the Secretary shall reallocate and distribute such allocation as the Secretary deems appropriate and equitable.

(2) In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county, or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities from such unaffected State to States containing areas adversely affected by the disaster.

(c) Purchases of commodities under this chapter shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All commodities so purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allocations and reallocations made under subsections (a) and (b), and or carry out section 9760, not later than December 31 of the following fiscal year.

SEC. 9756. PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.

(a) In distributing the commodities allocated under subsections (a) and (b) of section 9755, the State agency, under procedures determined by the State agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to emergency feeding organizations.

(b) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsection (a), its remaining allocation of commodities shall be distributed to charitable institutions described in section 9763(3) not receiving commodities under subsection (a).

(c) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsections (a) and (b), its remaining allocation of commodities shall be distributed to any eligible recipient agency not receiving commodities under subsections (a) and (b).

SEC. 9757. INITIAL PROCESSING COSTS.

The Secretary may use funds of the Commodity Credit Corporation to pay the costs of initial processing and packaging of commodities to be distributed under this chapter into forms and in quantities suitable, as determined by the Secretary, for use by the individual households or eligible recipient agencies, as applicable. The Secretary may pay such costs in the form of Corporation-owned commodities equal in value to such costs. The Secretary shall ensure that any such payments in kind will not displace commercial sales of such commodities.

SEC. 9758. ASSURANCES; ANTICIPATED USE.

(a) The Secretary shall take such precautions as the Secretary deems necessary to ensure that commodities made available under this chapter will not displace commercial sales of such commodities or the products thereof. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate by December 31, 1997, and not less than every two years thereafter, a report as to whether and to what extent such displacements or substitutions are occurring.

(b) The Secretary shall determine that commodities provided under this chapter shall be purchased and distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this chapter in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

SEC. 9759. AUTHORIZATION OF APPROPRIATIONS.

(a) PURCHASE OF COMMODITIES.—To carry out this chapter, there are authorized to be appropriated $260,000,000 for each of the fiscal years 1996 through 2000 to purchase, process, and distribute commodities to the States in accordance with this chapter.

(b) ADMINISTRATIVE FUNDS.—

(1) There are authorized to be appropriated $40,000,000 for each of the fiscal years 1996 through 2000 for the Secretary to make available to the States for State and local payments for costs associated with the distribution of commodities by eligible recipient agencies under this chapter, excluding costs associated with the distribution of those commodities distributed under section 9760. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis dividing such funds among the States in the same proportions as the commodities distributed under this chapter for such fiscal year are allocated among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States in a manner the Secretary deems appropriate and equitable.

(2)(A) A State shall make available in each fiscal year to eligible recipient agencies in the State not less than 40 percent of the funds received by the State under paragraph (1) for such fiscal year, as necessary to pay for, or provide advance payments to cover, the allowable expenses of eligible recipient agencies for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such recipient agencies.

(B) As used in this paragraph, the term ''allowable expenses'' includes—

(i) costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after such commodities are received by eligible recipient agencies;

(ii) costs associated with determinations of eligibility, verification, and documentation;

(iii) costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities; and

(iv) costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this chapter.

(C) If a State makes a payment, using State funds, to cover allowable expenses of eligible recipient agencies, the amount of such payment shall be counted toward the amount a State must make available for allowable expenses of recipient agencies under this paragraph.

(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or eligible recipient agencies for costs other than those involved in covering the expenses related to the distribution of commodities by eligible recipient agencies.

(4)(A) Except as provided in subparagraph (B), to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

(i) the amount of such funds so received; and

(ii) any part of the amount allocated to the State and paid by the State—

(I) to eligible recipient agencies; or

(II) for the allowable expenses of such recipient agencies; for use in carrying out this chapter.

(B) Funds allocated to a State under this section may, upon State request, be allocated before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

(C) Any funds distributed for administrative costs under section 9760(b) shall not be covered by this paragraph.

(5) States may not charge for commodities made available to eligible recipient agencies, and may not pass on to such recipient agencies the cost of any matching requirements, under this chapter.

(c) VALUE OF COMMODITIES.—The value of the commodities made available under subsections (c) and (d) of section 9752, and the funds of the Corporation used to pay the costs of initial processing, packaging (including forms suitable for home use), and delivering commodities to the States shall not be charged against appropriations authorized by this section.

SEC. 9760. COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) From the funds appropriated under section 9759(a), $94,500,000 shall be used for each fiscal year to purchase and distribute commodities to supplemental feeding programs serving woman, infants, and children or elderly individuals (hereinafter in this section referred to as the ''commodity supplemental food program''), or serving both groups wherever located.

(b) Not more than 20 percent of the funds made available under subsection (a) shall be made available to the States for State and local payments of administrative costs associated with the distribution of commodities by eligible recipient agencies under this section. Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

(c)(1) During each fiscal year the commodity supplemental food program is in operation, the types, varieties, and amounts of commodities to be purchased under this section shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or amounts from those that were available or were planned at the beginning of the fiscal year the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1996 through 2000 to the Secretary. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.

(d) The Secretary shall, in each fiscal year, approve applications of additional sites for the program, including sites that serve only elderly persons, in areas in which the program currently does not operate, to the full extent that applications can be approved within the appropriations available for the program for the fiscal year and without reducing actual participation levels (including participation of elderly persons under subsection (e)) in areas in which the program is in effect.

(e) If a local agency that administers the commodity supplemental food program determines that the amount of funds made available to the agency to carry out this section exceeds the amount of funds necessary to provide assistance under such program to women, infants, and children, the agency, with the approval of the Secretary, may permit low-income elderly persons (as defined by the Secretary) to participate in and be served by such program.

(f)(1) If it is necessary for the Secretary to pay a significantly higher than expected price for one or more types of commodities purchased under this section, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.

(g) Commodities distributed to States pursuant to this section shall not be considered in determining the commodity allocation to each State under section 9755 or priority of distribution under section 9756.

SEC. 9761. COMMODITIES NOT INCOME.

Notwithstanding any other provision of law, commodities distributed under this chapter shall not be considered income or resources for purposes of determining recipient eligibility under any Federal, State, or local means-tested program.

SEC. 9762. PROHIBITION AGAINST CERTAIN STATE CHARGES.

Whenever a commodity is made available without charge or credit under this chapter by the Secretary for distribution within the States to eligible recipient agencies, the State may not charge recipient agencies any amount that is in excess of the State's direct costs of storing, and transporting to recipient agencies the commodities minus any amount the Secretary provides the State for the costs of storing and transporting such commodities.

SEC. 9763. DEFINITIONS.

As used in this chapter:

(1) The term ''average monthly number of unemployed persons'' means the average monthly number of unemployed persons within a State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

(2) The term ''elderly persons'' means individuals 60 years of age or older.

(3) The term ''eligible recipient agency'' means a public or nonprofit organization that administers—

(A) an institution providing commodities to supplemental feeding programs serving women, infants, and children or serving elderly persons, or serving both groups;

(B) an emergency feeding organization;

(C) a charitable institution (including hospitals and retirement homes and excluding penal institutions) to the extent that such institution serves needy persons;

(D) a summer camp for children, or a child nutrition program providing food service;

(E) a nutrition project operating under the Older Americans Act of 1965, including such projects that operate a congregate nutrition site and a project that provides home-delivered meals; or

(F) a disaster relief program; and that has been designated by the appropriate State agency, or by the Secretary, and approved by the Secretary for participation in the program established under this chapter.

(4) The term ''emergency feeding organization'' means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

(5) The term ''food bank'' means a public and charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

(6) The term ''food pantry'' means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

(7) The term ''needy persons'' means—

(A) individuals who have low incomes or who are unemployed, as determined by the State (in no event shall the income of such individual or household exceed 185 percent of the poverty line);

(B) households certified as eligible to participate in the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(C) individuals or households participating in any other Federal, or federally assisted, means-tested program.

(8) The term ''poverty line'' has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(9) The term ''soup kitchen'' means a public and charitable institution that, as integral part of its normal activities, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

SEC. 9764. REGULATIONS.

(a) The Secretary shall issue regulations within 120 days to implement this chapter.

(b) In administering this chapter, the Secretary shall minimize, to the maximum extent practicable, the regulatory, recordkeeping, and paperwork requirements imposed on eligible recipient agencies.

(c) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register a nonbinding estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available under the commodity distribution program under this chapter during the fiscal year.

(d) The regulations issued by the Secretary under this section shall include provisions that set standards with respect to liability for commodity losses for the commodities distributed under this chapter in situations in which there is no evidence of negligence or fraud, and conditions for payment to cover such losses. Such provisions shall take into consideration the special needs and circumstances of eligible recipient agencies.

SEC. 9765. FINALITY OF DETERMINATIONS.

Determinations made by the Secretary under this chapter and the facts constituting the basis for any donation of commodities under this chapter, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

SEC. 9766. RELATIONSHIP TO OTHER PROGRAMS.

(a) Section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)) shall not apply with respect to the distribution of commodities under this chapter.

(b) Except as otherwise provided in section 9757, none of the commodities distributed under this chapter shall be sold or otherwise disposed of in commercial channels in any form.

SEC. 9767. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

(a) The Secretary may—

(1) determine the amount of, settle, and adjust any claim arising under this chapter; and

(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this chapter.

(b) Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

SEC. 9768. REPEALERS; AMENDMENTS.

(a) REPEALER.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is repealed.

(b) AMENDMENTS.—

(1) The Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(A) by striking section 110; and

(B) by striking section 502.

(2) The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking section 4.

(3) The Charitable Assistance and Food Bank Act of 1987 (7 U.S.C. 612c note) is amended by striking section 3.

(4) The Food Security Act of 1985 (7 U.S.C. 612c note) is amended—

(A) by striking section 1562(a) and section 1571; and

(B) in section 1562(d), by striking ''section 4 of the Agricultural and Consumer Protection Act of 1973'' and inserting ''section 9752 of the Commodity Distribution Act of 1995''.

(5) The Agricultural and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended—

(A) in section 4(a), by striking ''institutions (including hospitals and facilities caring for needy infants and children), supplemental feeding programs serving women, infants and children or elderly persons, or both, wherever located, disaster areas, summer camps for children,'';

(B) in subsection 4(c), by striking ''the Emergency Food Assistance Act of 1983'' and inserting ''the Commodity Distribution Act of 1995''; and

(C) by striking section 5.

(6) The Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 612c note) is amended by striking section 1773(f).

CHAPTER 3—OTHER PROGRAMS

SEC. 9781. CHILD AND ADULT CARE FOOD PROGRAM.

(a) PAYMENTS TO SPONSOR EMPLOYEES.—Paragraph (2) of the last sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(3) by adding at the end the following:

''(D) in the case of a family or group day care home sponsoring organization that employs more than 1 employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited, managed, or monitored.''.

(b) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the National School Lunch Act is amended by striking ''(3)(A) Institutions'' and all that follows through the end of subparagraph (A) and inserting the following:

''(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

''(A) REIMBURSEMENT FACTOR.—

''(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home of the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

''(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

''(I) DEFINITION.—In this paragraph, the term 'tier I family or group day care home' means—

''(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the eligibility standards for free or reduced price meals under section 9;

''(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

''(cc) a family or group day care home that is operated by a provider whose household meets the eligibility standards for free or reduced price meals under section 9 and whose income is verified by a sponsoring organization under regulations established by the Secretary.

''(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

''(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

''(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

''(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

''(I) IN GENERAL.—

''(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be $1 for lunches and suppers, 40 cents for breakfasts, and 20 cents for supplements.

''(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

''(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

''(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

''(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the eligibility standards for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

''(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the eligibility standards, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

''(III) INFORMATION AND DETERMINATIONS.—

''(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

''(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the eligibility standards under section 9.

''(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

''(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that serves the home. The procedures the Secretary prescribes may include 1 or more of the following:

''(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

''(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the eligibility standards under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

''(cc) Such other simplified procedures as the Secretary may prescribe.

''(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.''.

(2) SPONSOR PAYMENTS.—Section 17(f)(3)(B) of the National School Lunch Act is amended—

(A) by striking the period at the end of the second sentence and all that follows through the end of the subparagraph and inserting the following: '', except that the adjustment that otherwise would occur on July 1, 1996, shall be made on August 1, 1996. The maximum allowable levels for administrative expense payments shall be rounded to the nearest lower dollar increment and based on the unrounded adjustment for the preceding 12-month period.'';

(B) by striking ''(B)'' and inserting ''(B)(i)''; and

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

''(ii) The maximum allowable level of administrative expense payments shall be adjusted by the Secretary—

''(I) to increase by 7.5 percent the monthly payment to family or group day care home sponsoring organizations both for tier I family or group day care homes and for those tier II family or group day care homes for which the sponsoring organization administers a means test as provided under subparagraph (A)(iii); and

''(II) to decrease by 7.5 percent the monthly payment to family or group day care home sponsoring organizations for family or group day care homes that do not meet the criteria for tier I homes and for which a means test is not administered.''.

(3) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

''(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

''(i) IN GENERAL.—

''(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

''(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

''(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

''(bb) training and other assistance to family and group day care homes in the implementation of the amendments to subparagraph (A) made by section 574(b)(1) of the Family Self-Sufficiency Act of 1995.

''(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(II)—

''(I) $30,000 in base funding to each State; and

''(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State in 1994 as a percentage of the number of all family day care homes participating in the program in 1994.

''(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for a fiscal year under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

''(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A) (as amended by section 134(b)(1) of the Family Self-Sufficiency Act of 1995).''.

(4) PROVISION OF DATA.—Section 17(f)(3) of the National School Lunch Act (as amended by paragraph (3)) is further amended by adding at the end the following:

''(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

''(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

''(ii) SCHOOL DATA.—

''(I) IN GENERAL.—A State agency administering the program under this section shall annually provide to a family or group day care home sponsoring organizations that request the data, a list of schools serving elementary school children in the State in which at least 50 percent of the children enrolled are certified to receive free or reduced price meals. State agencies administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall collect such data annually and provide such data on a timely basis to the State agency administering the program under this section.

''(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

''(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.''.

(5) CONFORMING AMENDMENTS.—Section 17(c) of the National School Lunch Act is amended by inserting ''except as provided in subsection (f)(3),'' after ''For purposes of this section,'' each place it appears in paragraphs (1), (2), and (3).

(c) DISALLOWING MEAL CLAIMS.—The fourth sentence of section 17(f)(4) of the National School Lunch Act is amended by inserting ''(including institutions that are not family or group day care home sponsoring organizations)'' after ''institutions''.

(d) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the National School Lunch Act is amended by striking subsection (k) and inserting the following:

''(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (b) shall become effective on August 1, 1996.

(3) IMPLEMENTATION.—The Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (2), (3), and (4) of subsection (b) and the provisions of section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)) not later than February 1, 1996. If such regulations are issued in interim form, final regulations shall be issued not later than August 1, 1996.

SEC. 9782. RESUMPTION OF DISCRETIONARY FUNDING FOR NUTRITION EDUCATION AND TRAINING PROGRAM.

Section 19(i)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is amended—

(1) by striking ''Out of'' and all that follows through ''and $10,000,000'' and inserting ''To carry out the provisions of this section, there is hereby authorized to be appropriated not to exceed $10,000,000''; and

(2) by striking the last sentence.

Subtitle H—Treatment of Aliens

SEC. 9801. EXTENSION OF DEEMING OF INCOME AND RESOURCES UNDER TEA, SSI, AND FOOD STAMP PROGRAMS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), in applying sections 407 and 1621 of the Social Security Act and section 5(i) of the Food Stamp Act of 1977, the period in which each respective section otherwise applies with respect to an alien shall be extended through the date (if any) on which the alien becomes a citizen of the United States (under chapter 2 of title III of the Immigration and Nationality Act).

(b) EXCEPTION.—Subsection (a) shall not apply to an alien if—

(1) the alien has been lawfully admitted to the United States for permanent residence, has attained 75 years of age, and has resided in the United States for at least 5 years;

(2) the alien—

(A) is a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge,

(B) is on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) is the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B);

(3) the alien is the subject of domestic violence by the alien's spouse and a divorce between the alien and the alien's spouse has been initiated through the filing of an appropriate action in an appropriate court; or

(4) there has been paid with respect to the self-employment income or employment of the alien, or of a parent or spouse of the alien, taxes under chapter 2 or chapter 21 of the Internal Revenue Code of 1986 in each of 20 different calendar quarters.

(c) HOLD HARMLESS FOR MEDICAID ELIGIBILITY.—Subsection (a) shall not apply with respect to determinations of eligibility for benefits under a State plan approved under part A of title IV of the Social Security Act or under the supplemental income security program under title XVI of such Act but only insofar as such determinations provide for eligibility for medical assistance under title XIX of such Act.

(d) RULES REGARDING INCOME AND RESOURCE DEEMING UNDER TEA PROGRAM.—Subpart 1 of part A of title IV of the Social Security Act, as added by section 9101(a) of this Act, is amended by adding at the end the following:

''SEC. 407. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

''(a) For purposes of determining eligibility for and the amount of assistance under a State plan approved under this part for an individual who is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

''(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

''(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

''(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

''(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

''(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(d);

''(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

''(iv) any payments of alimony or child support with respect to individuals not living in such household.

''(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

''(A) the total amount of the resources (determined as if the sponsor were applying for assistance under the State plan approved under this part) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

''(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

''(c)(1) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States, unless the State agency administering such plan determines that such sponsor either no longer exists or has become unable to meet such individual's needs; and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such individual, and any other individual who is an alien (as a condition of his or her eligibility for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States), shall be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

''(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

''(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of assistance under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

''(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such alien individuals) and the income and resources of each such individual shall be deemed to include one such share.

''(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

''(f) The provisions of this section shall not apply with respect to any alien who is—

''(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

''(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such Act;

''(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

''(4) granted political asylum by the Attorney General under section 208 of such Act; or

''(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96–422).'.

SEC. 9802. REQUIREMENTS FOR SPONSOR'S AFFIDAVITS OF SUPPORT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

''REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

''SEC. 213A. (a) ENFORCEABILITY.—

''(1) IN GENERAL.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable under section 212(a)(4) unless such affidavit is executed as a contract—

''(A) which is legally enforceable against the sponsor by the Federal Government, by a State, or by any political subdivision of a State, providing cash benefits under a public cash assistance program (as defined in subsection (f)(2)), but not later than 5 years after the date the alien last receives any such cash benefit; and

''(B) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

''(2) EXPIRATION OF LIABILITY.—Such contract shall only apply with respect to cash benefits described in paragraph (1)(A) provided to an alien before the earliest of the following:

''(A) CITIZENSHIP.—The date the alien becomes a citizen of the United States under chapter 2 of title III.

''(B) VETERAN.—The first date the alien is described in section 9801(b)(2)(A) of the Omnibus Budget Reconciliation Act of 1995.

''(C) PAYMENT OF SOCIAL SECURITY TAXES.—The first date as of which the condition described in section 9801(b)(4) of the Omnibus Budget Reconciliation Act of 1995 is met with respect to the alien.

''(3) NONAPPLICATION DURING CERTAIN PERIODS.—Such contract also shall not apply with respect to cash benefits described in paragraph (1)(A) provided during any period in which the alien is described in section 9801(b)(2)(B) or 9801(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1995.

''(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

''(c) NOTIFICATION OF CHANGE OF ADDRESS.—

''(1) REQUIREMENT.—The sponsor shall notify the Federal Government and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1)(A).

''(2) ENFORCEMENT.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

''(A) not less than $250 or more than $2,000, or

''(B) if such failure occurs with knowledge that the sponsored alien has received any benefit under any means-tested public benefits program, not less than $2,000 or more than $5,000.

''(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

''(1) REQUEST FOR REIMBURSEMENT.—

''(A) IN GENERAL.—Upon notification that a sponsored alien has received any cash benefits described in subsection (a)(1)(A), the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such cash benefits.

''(B) REGULATIONS.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

''(2) INITIATION OF ACTION.—If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

''(3) FAILURE TO ABIDE BY REPAYMENT TERMS.—If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

''(4) LIMITATION ON ACTIONS.—No cause of action may be brought under this subsection later than 5 years after the date the alien last received any cash benefit described in subsection (a)(1)(A).

''(f) DEFINITIONS.—For the purposes of this section:

''(1) SPONSOR.—The term 'sponsor' means an individual who—

''(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

''(B) is 18 years of age or over; and

''(C) is domiciled in any State.

''(2) PUBLIC CASH ASSISTANCE PROGRAM.—The term 'public cash assistance program' means a program of the Federal Government or of a State or political subdivision of a State that provides direct cash assistance for the purpose of income maintenance and in which the eligibility of an individual, household, or family eligibility unit for cash benefits under the program, or the amount of such cash benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit. Such term does not include any program insofar as it provides medical, housing, education, job training, food, or in-kind assistance or social services.''.

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

''Sec. 213A. Requirements for sponsor's affidavit of support.''.

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section 213A.

SEC. 9803. EXTENDING REQUIREMENT FOR AFFIDAVITS OF SUPPORT TO FAMILY-RELATED AND DIVERSITY IMMIGRANTS.

(a) IN GENERAL.—Section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) is amended to read as follows:

''(4) PUBLIC CHARGE AND AFFIDAVITS OF SUPPORT.—

''(A) PUBLIC CHARGE.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

''(B) AFFIDAVITS OF SUPPORT.—Any immigrant who seeks admission or adjustment of status as any of the following is excludable unless there has been executed with respect to the immigrant an affidavit of support pursuant to section 213A:

''(i) As an immediate relative (under section 201(b)(2)).

''(ii) As a family-sponsored immigrant under section 203(a) (or as the spouse or child under section 203(d) of such an immigrant).

''(iii) As the spouse or child (under section 203(d)) of an employment-based immigrant under section 203(b).

''(iv) As a diversity immigrant under section 203(c) (or as the spouse or child under section 203(d) of such an immigrant).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens with respect to whom an immigrant visa is issued (or adjustment of status is granted) after the date specified by the Attorney General under section 9802(c)

Subtitle I—Earned Income Tax Credit

SEC. 9901. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

''(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

''(i) such individual's taxpayer identification number, and

''(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.''

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of such Code is amended by adding at the end the following new subsection:

''(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).''

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking ''and' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

''(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return, and

''(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE X—REDUCTIONS IN CORPORATE TAX SUBSIDIES AND OTHER REFORMS

SEC. 10001. SHORT TITLE.

This title may be cited as the ''Revenue Reconciliation Act of 1995''.

Subtitle A—Tax Treatment of Expatriation

SEC. 10101. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsection (f)(2), all property held by an expatriate immediately before the expatriation date shall be treated as sold at such time for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

''(3) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If an expatriate elects the application of this paragraph with respect to any property—

''(i) this section (other than this paragraph) shall not apply to such property, but

''(ii) such property shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of subsection (a)(2)).

''(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(D) ELECTION.—An election under subparagraph (A) shall apply only to the property described in the election and, once made, shall be irrevocable.

''(b) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this subsection) be includible in the gross income of any individual by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

''(c) PROPERTY TREATED AS HELD.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

''(1) all property which would be includible in his gross estate under chapter 11 if such individual were a citizen or resident of the United States (within the meaning of chapter 11) who died at the time the property is treated as sold,

''(2) any other interest in a trust which the individual is treated as holding under the rules of subsection (f)(1), and

''(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

''(d) EXCEPTIONS.—The following property shall not be treated as sold for purposes of this section:

''(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

''(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax- favored treatment.

''(B) FOREIGN PENSION PLANS.—

''(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

''(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes his citizenship, or

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

An individual shall not be treated as an expatriate for purposes of this section by reason of the individual relinquishing United States citizenship before attaining the age of 18½ if the individual has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for less than 5 taxable years before the date of relinquishment.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

''(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—

''(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a)(1) is treated as occurring. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

''(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

''(ii) any taxable year prior to the taxable year referred to in clause (i).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—For purposes of this section—

''(A) GENERAL RULE.—A beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

''(B) SPECIAL RULE.—The remaining interests in the trust not determined under subparagraph (A) to be held by any beneficiary shall be allocated first to the grantor, if a beneficiary, and then to other beneficiaries under rules prescribed by the Secretary similar to the rules of intestate succession.

''(C) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(D) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(i) the methodology used to determine that taxpayer's trust interest under this section, and

''(ii) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(2) DEEMED SALE IN CASE OF TRUST INTEREST.—If an individual who is an expatriate is treated under paragraph (1) as holding an interest in a trust for purposes of this section—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

''(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate, and

''(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) RULES RELATING TO PAYMENT OF TAX.—

''(1) IMPOSITION OF TENTATIVE TAX.—

''(A) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(B) DUE DATE.—The due date for any tax imposed by subparagraph (A) shall be the 90th day after the expatriation date.

''(C) TREATMENT OF TAX.—Any tax paid under subparagraph (A) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(2) DEFERRAL OF TAX.—The payment of any tax attributable to amounts included in gross income under subsection (a) may be deferred to the same extent, and in the same manner, as any tax imposed by chapter 11, except that the Secretary may extend the period for extension of time for paying tax under section 6161 to such number of years as the Secretary determines appropriate.

''(3) RULES RELATING TO SECURITY INTERESTS.—

''(A) ADEQUACY OF SECURITY INTERESTS.—In determining the adequacy of any security to be provided under this section, the Secretary may take into account the principles of section 2056A.

''(B) SPECIAL RULE FOR TRUST.—If a taxpayer is required by this section to provide security in connection with any tax imposed by reason of this section with respect to the holding of an interest in a trust and any trustee of such trust is an individual citizen of the United States or a domestic corporation, such trustee shall be required to provide such security upon notification by the taxpayer of such requirement.

''(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

''(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

''(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent double taxation by ensuring that—

''(1) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (b),

''(2) no interest in property is treated as held for purposes of this section by more than one taxpayer, and

''(3) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(1)(C).

''(k) CROSS REFERENCE.—

''For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).''

(b) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).''

(c) CONFORMING AMENDMENTS.—

(1) Section 877 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.''

(2) Section 2107(c) of such Code is amended by adding at the end the following new paragraph:

''(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).''

(3) Section 2501(a)(3) of such Code is amended by adding at the end the following new flush sentence:

''For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).''

(4) Section 6851 of such Code is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(5) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).''

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(1)(B) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 10102. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

''SEC. 1061. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

''(a) GENERAL RULE.—If a nonresident alien individual becomes a citizen or resident of the United States, gain or loss on the disposition of any property held on the date the individual becomes such a citizen or resident shall be determined by substituting, as of the applicable date, the fair market value of such property (on the applicable date) for its cost basis.

''(b) EXCEPTION FOR DEPRECIATION.—Any deduction under this chapter for depreciation, depletion, or amortization shall be determined without regard to the application of this section.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) APPLICABLE DATE.—The term 'applicable date' means, with respect to any property to which subsection (a) applies, the earlier of—

''(A) the date the individual becomes a citizen or resident of the United States, or

''(B) the date the property first becomes subject to tax under this subtitle by reason of being used in a United States trade or business or by reason of becoming a United States real property interest (within the meaning of section 897(c)(1)).

''(2) RESIDENT.—The term 'resident' does not include an individual who is treated as a resident of a foreign country under the provisions of a tax treaty between the United States and a foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(3) TRUSTS.—A trust shall not be treated as an individual.

''(4) ELECTION NOT TO HAVE SECTION APPLY.—An individual may elect not to have this section apply solely for purposes of determining gain with respect to any property. Such election shall apply only to property specified in the election and, once made, shall be irrevocable.

''(5) SECTION ONLY TO APPLY ONCE.—This section shall apply only with respect to the first time the individual becomes either a citizen or resident of the United States.

''(d) REGULATIONS.—The Secretary shall prescribe regulations for purposes of this section, including regulations—

''(1) for application of this section in the case of property which consists of a direct or indirect interest in a trust, and

''(2) providing look-thru rules in the case of any indirect interest in any United States real property interest (within the meaning of section 897(c)(1)) or property used in a United States trade or business.''

(b) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 1061 and inserting the following new items:

''Sec. 1061. Basis of assets of nonresident alien individuals becoming citizens or residents.

''Sec. 1062. Cross references.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after the date of the enactment of this Act, and to any disposition occurring on or before such date to which section 877A of the Internal Revenue Code of 1986 (as added by section 611) applies.

Subtitle B—Modification to Earned Income Credit

SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL CAPITAL GAIN NET INCOME.

(a) IN GENERAL.—Paragraph (2) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excessive investment income) is amended—

(1) by striking ''and'' at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting '', and'', and

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

''(D) capital gain net income for the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

SEC. 10301. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

''PART VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

''Sec. 59B. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

''SEC. 59B. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

''(a) IMPOSITION OF TAX.—In the case of a corporation to which this section applies, there is hereby imposed an alternative minimum tax equal to 4 percent of net business receipts of the corporation for the taxable year.

''(b) TAXPAYERS TO WHICH SECTION APPLIES.—This section shall apply to any corporation, foreign or domestic, if—

''(1) gross sales in the United States during the tax year of parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, exceeded $10,000,000,

''(2) during that same tax year parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, with a customs value in excess of $10,000,000 were imported into the United States, and

''(3) its tax obligation under this section exceeds its total tax obligation under all other sections of the Internal Revenue Code of 1986.

''(c) CREDIT FOR TAXES PAID.—There shall be a nonrefundable credit against the taxes owed under this section equal to the total of all other taxes paid by the corporation under the Internal Revenue Code of 1986.

''(d) DEFINITIONS.—For purposes of this section:

''(1) NET BUSINESS RECEIPTS.—The term 'net business receipts' means the value of all parts or products sold in the United States, excluding—

''(A) the value of parts or products sold for export,

''(B) expenses paid for parts or products produced in the United States,

''(C) expenses paid for services performed in the United States, and

''(D) amounts paid for income, sales or use taxes imposed by any State, or political subdivision thereof, or by the District of Columbia, Puerto Rico, Guam or the Virgin Islands.

''(2) SUBSIDIARY OR AFFILIATE CONTROLLED BY THE CORPORATION.—An entity shall be considered to be a 'subsidiary or affiliate controlled by the corporation' if the corporation owns 5 percent or more of any class of stock of the entity or if the corporation exercises control over a majority of the board of directors of the entity.''

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

''Part VIII. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

SEC. 10401. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) of the Internal Revenue Code of 1986 (relating to corporate shareholder's basis in stock reduced by nontaxed portion

of extraordinary dividends) is amended to read as follows:

''(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.''

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) of such Code (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

''(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

''(A) REDEMPTIONS.—In the case of any redemption of stock—

''(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

''(ii) which is not pro rata as to all shareholders, or

''(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

''(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A).''

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting ''September 13, 1995'' for ''May 3, 1995''.

Subtitle E—Foreign Trust Tax Compliance

SEC. 10501. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 of the Internal Revenue Code of 1986 (relating to returns as to certain foreign trusts) is amended to read as follows:

''SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) NOTICE OF CERTAIN EVENTS.—

''(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

''(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

''(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

''(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

''(3) REPORTABLE EVENT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'reportable event' means—

''(i) the creation of any foreign trust by a United States person,

''(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

''(iii) the death of a citizen or resident of the United States if—

''(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

''(II) any portion of a foreign trust was included in the gross estate of the decedent.

''(B) EXCEPTIONS.—

''(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

''(ii) PENSION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

''(I) described in section 404(a)(4) or 404A, or

''(II) determined by the Secretary to be described in section 501(c)(3).

''(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

''(A) the grantor in the case of the creation of an inter vivos trust,

''(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

''(C) the executor of the decedent's estate in any other case.

''(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

''(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

''(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

''(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

''(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

''(A) IN GENERAL.—If the rules of this subsection apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

''(B) UNITED STATES AGENT REQUIRED.—The rules of this subsection shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

''(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

''(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

''(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

''(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

''(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

''(A) the name of such trust,

''(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

''(C) such other information as the Secretary may prescribe.

''(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

''(d) SPECIAL RULES.—

''(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

''(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

''(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

''(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.''

(b) INCREASED PENALTIES.—Section 6677 of such Code (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

''(1) is not filed on or before the time provided in such section, or

''(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

''(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

''(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

''(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

''(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

''(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

''(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

''(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

''(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).''

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) of such Code is amended by striking ''or'' at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting '', or'', and by inserting after subparagraph (T) the following new subparagraph:

''(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).''

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6048 and inserting the following new item:

''Sec. 6048. Information with respect to certain foreign trusts.''

(3) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6677 and inserting the following new item:

''Sec. 6677. Failure to file information with respect to certain foreign trusts.''

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 10502. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (B) and inserting the following:

''(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.''

(2) Subsection (a) of section 679 of such Code (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

''(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

''(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

''(i) any obligation of a person described in subparagraph (C), and

''(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

''(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

''(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

''(i) the trust,

''(ii) any grantor or beneficiary of the trust, and

''(iii) any person who is related (within the meaning of section 643(i)(3)) to any grantor or beneficiary of the trust.''

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 of such Code is amended by striking ''section 404(a)(4) or 404A'' and inserting ''section 6048(a)(3)(B)(ii)''.

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 of such Code is amended by adding at the end the following new paragraphs:

''(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

''(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

''(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

''(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

''(5) OUTBOUND TRUST MIGRATIONS.—If—

''(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

''(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.''

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 of such Code is amended by adding at the end the following new paragraphs:

''(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

''(4) TREATMENT OF FORMER UNITED STATES PERSONS.—To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust.''

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) of such Code is amended to read as follows:

''(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),''.

(f) REGULATIONS.—Section 679 of such Code is amended by adding at the end the following new subsection:

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 10503. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 of the Internal Revenue Code of 1986 (relating to special rule where grantor is foreign person) is amended to read as follows:

''(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

''(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

''(2) EXCEPTIONS.—

''(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any trust if—

''(I) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

''(II) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

''(ii) EXCEPTION.—Clause (i) shall not apply to any trust which has a beneficiary who is a United States person to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to a foreign person who is the grantor of such trust. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift is excluded from taxable gifts under section 2503(b).

''(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

''(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

''(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

''(B) paragraph (1) shall not apply for purposes of applying part III of subchapter G (relating to foreign personal holding companies) and part VI of subchapter P (relating to treatment of certain passive foreign investment companies).

''(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.''

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting ''subsection (f) and'' before ''sections 674''.

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) of such Code is amended by adding at the end the following new sentence: ''Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.''

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 of such Code is amended by adding at the end the following new subsection:

''(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.''

(2) Section 665 of such Code is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 10504. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6039E the following new section:

''SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

''(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

''(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

''(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

''(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

''(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

''(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

''(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Notice of large gifts received from foreign persons.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 10505. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 of the Internal Revenue Code of 1986 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

''(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

''(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

''(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

''(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

''(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

''(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

''(ii) the aggregate undistributed net income.q02

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

''(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

''(i) the undistributed net income for such year, and

''(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

''(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

''(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for prior taxable years.

''(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

''(A) by using an interest rate of 6 percent, and

''(B) without compounding until January 1, 1996.''

(b) ABUSIVE TRANSACTIONS.—Section 643(a) of such Code is amended by inserting after paragraph (6) the following new paragraph:

''(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.''

(c) TREATMENT OF USE OF TRUST PROPERTY.—

(1) IN GENERAL.—Section 643 of such Code (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

''(i) USE OF FOREIGN TRUST PROPERTY.—For purposes of subparts B, C, and D—

''(1) GENERAL RULE.—If a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

''(A) any grantor or beneficiary of such trust who is a United States person, or

''(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

''(2) USE OF OTHER PROPERTY.—Except as provided in regulations prescribed by the Secretary, any direct or indirect use of trust property (other than cash or marketable securities) by a person referred to in subparagraph (A) or (B) of paragraph (1) shall be treated as a distribution to the grantor or beneficiary (as the case may be) equal to the fair market value of the use of such property. The Secretary may prescribe regulations treating a loan guarantee by the trust as a use of trust property equal to the value of the guarantee.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

''(B) RELATED PERSON.—

''(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

''(ii) ALLOCATION OF USE.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

''(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

''(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

''(4) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.''

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) of such Code is amended by inserting '', 643(i),'' before ''or 1274'' each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) USE OF TRUST PROPERTY.—The amendment made by subsection (c) shall apply to—

(A) loans of cash or marketable securities after September 19, 1995, and

(B) uses of other trust property after December 31, 1995.

SEC. 10506. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

''(D) any estate or trust if—

''(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

''(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.''

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) of such Code is amended to read as follows:

''(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 of such Code (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

''If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.''

(2) PENALTY.—Section 1494 of such Code is amended by adding at the end the following new subsection:

''(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Subtitle F—Limitation on Section 936 Credit

SEC. 10601. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Paragraph (4) of section 936(a) of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by striking subparagraph (A) and inserting the following new subsections:

''(A) CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed 60 percent of the aggregate amount of the possession corporation's qualified possession wages for such taxable year.

''(B) CREDIT FOR INVESTMENT INCOME.—

''(i) IN GENERAL.—If—

''(I) the QPSII assets of the possession corporation for any taxable year, exceed

''(II) 80 percent of such possession corporation's qualified tangible business investment for such taxable year,

the credit determined under paragraph (1)(B) for such taxable year shall be reduced by the amount determined under clause (ii).

''(ii) AMOUNT OF REDUCTION.—The reduction determined under this clause for any taxable year is an amount which bears the same ratio to the credit determined under paragraph (1)(B) for such taxable year (determined without regard to this subparagraph) as—

''(I) the excess determined under clause (i), bears to

''(II) the QPSII assets of the possession corporation for such taxable year.''

(b) PHASEDOWN OF CREDIT.—The table contained in clause (ii) of section 936(a)(4)(C) of such Code, as redesignated by subsection (a), is amended to read as follows:

''In the case of taxable years beginning in:	The percentage is:
1994	60
1995	55
1996	40
1997	20
1998 and thereafter	0.''

(c) DEFINITIONS AND SPECIAL RULES.—Subsection (i) of section 936 of such Code is amended to read as follows:

''(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

''(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

''(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year to any employee for services performed in a possession of the United States, but only if such services are performed while the principal place of employment of such employee is within such possession.

''(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

''(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

''(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

''(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

''(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

''(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (4) shall be treated as 1 employer for purposes of the preceding sentence.

''(D) WAGES.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning

given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

''(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

''(2) QPSII ASSETS.—For purposes of this section—

''(A) IN GENERAL.—The QPSII assets of a possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified investment assets as of the close of each quarter of such taxable year.

''(B) QUALIFIED INVESTMENT ASSETS.—The term 'qualified investment assets' means the aggregate adjusted bases of the assets which are held by the possession corporation and the income from which qualifies as qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

''(3) QUALIFIED TANGIBLE BUSINESS INVESTMENT.—For purposes of this section—

''(A) IN GENERAL.—The qualified tangible business investment of any possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified possession investments as of the close of each quarter of such taxable year.

''(B) QUALIFIED POSSESSION INVESTMENTS.—The term 'qualified possession investments' means the aggregate adjusted bases of tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis as determined for purposes of computing earnings and profits.

''(4) RELOCATED BUSINESSES.—

''(A) IN GENERAL.—In determining—

''(i) the possession corporation's qualified possession wages for any taxable year, and

''(ii) the possession corporation's qualified tangible business investment for such taxable year,

there shall be excluded all wages and all qualified possession investments which are allocable to a disqualified relocated business.

''(B) DISQUALIFIED RELOCATED BUSINESS.—For purposes of subparagraph (A), the term 'disqualified relocated business' means any trade or business commenced by the possession corporation after October 12, 1995, or any addition after such date to an existing trade or business of such possession corporation unless—

''(i) the possession corporation certifies that the commencement of such trade or business or such addition will not result in a decrease in employment at an existing business operation located in the United States, and

''(ii) there is no reason to believe that such commencement or addition was done with the intention of closing down operations of an existing business located in the United States.

''(5) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

''(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations which would be members of such group but for section 1504(b)(4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

''(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

''(6) TREATMENT OF CERTAIN TAXES.—Notwithstanding subsection (c), if—

''(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4), and

''(B) the possession corporation has paid or accrued any taxes of a possession of the United States for such taxable year which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c), such possession corporation shall be allowed a deduction for such taxable year equal to the portion of such taxes which are allocable (on a pro rata basis) to taxable income of the possession corporation the tax on which is not offset by reason of the limitations of subsection (a)(4). In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

''(7) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect.''

(d) MINIMUM TAX TREATMENT.—Clause (iii) of section 56(g)(4)(C) of such Code is amended by adding at the end thereof the following subclauses:

''(III) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

''(IV) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I).''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. SHORT TITLE.

This title may be cited as the ''Veterans Reconciliation Act of 1995''.

Subtitle A—Permanent Extension of Temporary Authorities

SEC. 11011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

Section 8013 of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out subsection (e).

SEC. 11012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out ''before October 1, 1998,''.

SEC. 11013. INCOME VERIFICATION AUTHORITY.

Section 5317 of title 38, United States Code, is amended by striking out subsection (g).

SEC. 11014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f) of title 38, United States Code, is amended by striking out paragraph (7).

SEC. 11015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out ''and before October 1, 1998''; and

(2) in paragraph (5)(C), by striking out '', and before October 1, 1998''.

SEC. 11016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out paragraph (11).

Subtitle B—Other Matters

SEC. 11021. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) REVISED STANDARD.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

''(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

''(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

''(A) was caused by Department health care and was a proximate result of—

''(i) negligence on the part of the Department in furnishing the Department health care; or

''(ii) an event not reasonably foreseeable; or

''(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

''(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a Department facility (as defined in section 1701(3)(A) of this title).

''(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section.''; and

(3) by adding at the end the following:

''(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

''(1) was the result of Department health care; or

''(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.''.

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out '', aggravation,'' both places it appears; and

(2) by striking out ''sentence'' and inserting in lieu thereof ''subsection''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim

that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 11022. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out ''December 31, 1995'' and inserting in lieu thereof ''September 30, 1996''.

SEC. 11023. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out ''unless'' and all that follows and inserting in lieu thereof the following: ''unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.''.

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting ''with return receipt requested'' after ''certified mail''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

Subtitle C—Health Care Eligibility Reform

SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.

(a) ELIGIBILITY FOR CARE.—Section 1710(a) of title 38, United States Code, is amended by striking out paragraphs (1) and (2) and inserting the following:

''(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations Acts for these purposes, provide hospital care and medical services, and may provide nursing home care, which the Secretary determines is needed to any veteran—

''(A) with a compensable service-connected disability;

''(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

''(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

''(D) who is a former prisoner of war;

''(E) of the Mexican border period or of World War I;

''(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); and

''(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

''(2) In the case of a veteran who is not described in paragraph (1), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsection (f), furnish hospital care, medical services, and nursing home care which the Secretary determines is needed.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1710(e) of such title is amended—

(A) in paragraph (1), by striking out ''hospital care and nursing home care'' in subparagraphs (A), (B), and (C) and inserting in lieu thereof ''hospital care, medical services, and nursing home care'';

(B) in paragraph (2), by inserting ''and medical services'' after ''Hospital and nursing home care''; and

(C) by striking out ''subsection (a)(1)(G) of this section'' each place it appears and inserting in lieu thereof ''subsection (a)(1)(F)''.

(2) Chapter 17 of such title is amended—

(A) by redesignating subsection (g) of section 1710 as subsection (h); and

(B) by transferring subsection (f) of section 1712 of such title to section 1710 so as to appear after subsection (f), redesignating such subsection as subsection (g), and amending such subsection by striking out ''section 1710(a)(2) of this title'' in paragraph (1) and inserting in lieu thereof ''subsection (a)(2) of this section''.

(3) Section 1712 of such title is amended—

(A) by striking out subsections (a) and (i); and

(B) by redesignating subsections (b), (c), (d), (h) and (j), as subsections (a), (b), (c), (d), and (e), respectively.

SEC. 11032. EXTENSION OF AUTHORITY TO PRIORITY HEALTH CARE FOR PERSIAN GULF VETERANS.

Section 1710(e)(3) of title 38, United States Code, is amended by striking out ''December 31, 1995'' and inserting in lieu thereof ''December 31, 1998''.

SEC. 11033. PROSTHETICS.

(a) ELIGIBILITY FOR PROSTHETICS.—Section 1701(6)(A)(i) of title 38, United States Code, is amended—

(1) by striking out ''(in the case of a person otherwise receiving care or services under this chapter)'' and ''(except under the conditions described in section 1712(a)(5)(A) of this title),'';

(2) by inserting ''(in the case of a person otherwise receiving care or services under this chapter)'' before ''wheelchairs,''; and

(3) by inserting ''except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe,'' after ''reasonable and necessary,''.

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 11034. MANAGEMENT OF HEALTH CARE.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new sections:

''§ 1705. Management of health care: patient enrollment system

''(a) In managing the provision of hospital care and medical services under section 1710(a)(1) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

''(1) Veterans with service-connected disabilities rated 30 percent or greater.

''(2) Veterans who are former prisoners of war and veterans with service connected disabilities rated 10 percent or 20 percent.

''(3) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

''(4) Veterans not covered by paragraphs (1) through (3) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

''(5) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(1) of this title.

''(b) In the design of an enrollment system under subsection (a), the Secretary—

''(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

''(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

''(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

''§ 1706. Management of health care: other requirements

''(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall, to the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

''(b) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary—

''(1) may contract for hospital care and medical services when Department facilities are not capable of furnishing such care and services economically, and

''(2) shall make such rules and regulations regarding acquisition procedures or policies as the Secretary considers appropriate to provide such needed care and services.

''(c) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (1) affords those veterans reasonable access to care and services for those specialized needs, and (2) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section.

''(d) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that any veteran with a service-connected disability is provided all benefits under this chapter for which that veteran was eligible before the date of the enactment of this section.''.

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1704 the following new items:

''1705. Management of health care: patient enrollment system.

''1706. Management of health care: other requirements.''.

(b) CONFORMING AMENDMENTS TO SECTION 1703.—(1) Section 1703 of such title is amended—

(A) by striking out subsections (a) and (b); and

(B) in subsection (c) by—

(i) striking out ''(c)'', and

(ii) striking out ''this section, sections'' and inserting in lieu thereof ''sections 1710,''.

(2)(A) The heading of such section is amended to read as follows:

''§ 1703. Annual report on furnishing of care and services by contract''.

(B) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended to read as follows:

''1703. Annual report on furnishing of care and services by contract.''.

SEC. 11035. IMPROVED EFFICIENCY IN HEALTH CARE RESOURCE MANAGEMENT.

(a) REPEAL OF SUNSET PROVISION.—Section 204 of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4950) is repealed.

(b) COST RECOVERY.—Title II of such Act is further amended by adding at the end the following new section:

''SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

''(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

''(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.''.

SEC. 11036. SHARING AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES.

(a) REPEAL OF SECTION 8151.—(1) Subchapter IV of chapter 81 of title 38, United States Code, is amended—

(A) by striking out section 8151; and

(B) by redesignating sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 as sections 8151, 8152, 8153, 8154, 8155, 8156, and 8157, respectively.

(2) The table of sections at the beginning of chapter 81 is amended—

(A) by striking out the item relating to section 8151; and

(B) by revising the items relating to sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 to reflect the redesignations by paragraph (1)(B).

(b) REVISED AUTHORITY FOR SHARING AGREEMENTS.—Section 8152 of such title, as redesignated by subsection (a)(1)(B), is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out ''specialized medical resources'' and inserting in lieu thereof ''health-care resources''; and

(B) by striking out ''other'' and all that follows through ''medical schools'' and inserting in lieu thereof ''any medical school, health-care provider, health-care plan, insurer, or other entity or individual'';

(2) in subsection (a)(2) by striking out ''only'' and all that follows through ''are not'' and inserting in lieu thereof ''if such resources are not, or would not be,'';

(3) in subsection (b), by striking out ''reciprocal reimbursement'' in the first sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof ''payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.'';

(4) in subsection (d), by striking out ''preclude such payment, in accordance with—'' and all that follows through ''to such facility therefor'' and inserting in lieu thereof ''preclude such payment to such facility for such care or services'';

(5) by redesignating subsection (e) as subsection (f); and

(6) by inserting after subsection (d) the following new subsection (e):

''(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

''(1) that such an arrangement will not result in the denial of, or a delay in providing access to, care to any veteran at that facility; and

''(2) that such an arrangement—

''(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

''(B) will result in the improvement of services to eligible veterans at that facility.''.

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 8110(c)(3)(A) of such title is amended by striking out ''8153'' and inserting in lieu thereof ''8152''.

(2) Subsection (b) of section 8154 of such title (as redesignated by subsection (a)(1)(B)) is amended by striking out ''section 8154'' and inserting in lieu thereof ''section 8153''.

(3) Section 8156 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in subsection (a), by striking out ''section 8153(a)'' and inserting in lieu thereof ''section 8152(a)''; and

(B) in subsection (b)(3), by striking out ''section 8153'' and inserting in lieu thereof ''section 8152''.

(4) Subsection (a) of section 8157 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in the matter preceding paragraph (1), by striking out ''section 8157'' and ''section 8153(a)'' and inserting in lieu thereof ''section 8156'' and ''section 8152(a)'', respectively; and

(B) in paragraph (1), by striking out ''section 8157(b)(4)'' and inserting in lieu thereof ''section 8156(b)(4)''.

SEC. 11037. PERSONNEL FURNISHING SHARED RESOURCES.

Section 712(b)(2) of title 38, United States Code, is amended—

(1) by striking out ''the sum of—'' and inserting in lieu thereof ''the sum of the following:'';

(2) by capitalizing the first letter of the first word of each of subparagraphs (A) and (B);

(3) by striking out ''; and'' at the end of subparagraph (A) and inserting in lieu thereof a period; and

(4) by adding at the end the following:

''(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8152 of this title.''.

TITLE XII—LEGISLATIVE BRANCH

SEC. 12101. REQUIREMENT THAT EXCESS FUNDS PROVIDED FOR OFFICIAL ALLOWANCES OF MEMBERS OF THE HOUSE OF REPRESENTATIVES BE DEDICATED TO DEFICIT REDUCTION.

Of the funds made available in any appropriation Act for fiscal year 1996 or any succeeding fiscal year for the official expenses allowance, the clerk hire allowance, or the official mail allowance of a Member of the House of Representatives, any amount that remains unobligated at the end of such fiscal year shall be transferred to the Deficit Reduction Fund established by Executive Order 12858 (58 Fed. Reg. 42185). Any amount so transferred shall be in addition to the amounts specified in section 2(b) of such order, but shall be subject to the requirements and limitations set forth in sections 2(c) and 3 of such order.

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 13101. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) CONFORMANCE WITH SCHEDULE FOR CIVIL SERVICE COLAS.—Subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended—

(1) by striking out ''THROUGH 1998'' the first place it appears and all that follows through ''In the case of'' the second place it appears and inserting in lieu thereof ''THROUGH 1996.—In the case of'';

(2) by striking ''of 1994, 1995, 1996, or 1997'' and inserting in lieu thereof ''of 1993, 1994, or 1995''; and

(3) by striking out ''September'' and inserting in lieu thereof ''March''.

(b) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—Section 8114A(b) of Public Law 103–335 (108 Stat. 2648) is repealed.

SEC. 13102. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of aluminum, ferro columbium, germanium, palladium, platinum, and rubber contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and

(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(3) The President is not required to include the disposal of the materials identified in paragraph (2) in an annual materials plan for the National Defense Stockpile. Disposals made under this section may be made without consideration of the requirements of an annual materials plan.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	42,482,323 pounds contained

Authorized Stockpile Disposals—Continued

Material for disposal	Quantity
Ferro Columbium	930,911 pounds contained
Germanium	68,207 kilograms
Palladium	1,264,601 troy ounces
Platinum	452,641 troy ounces
Rubber	125,138 long tons

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.

(f) DEFINITION.—The term ''National Defense Stockpile'' means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 13103. REQUIREMENT THAT CERTAIN AGENCIES PREFUND GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS FOR THEIR ANNUITANTS.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term ''agency'' means any agency or other instrumentality within the executive branch of the Government, the receipts and disbursements of which are not generally included in the totals of the budget of the United States Government submitted by the President;

(2) the term ''health benefits plan'' means, with respect to an agency, a health benefits plan, established by or under Federal law, in which employees or annuitants of such agency may participate;

(3) the term ''health-benefits coverage'' means coverage under a health benefits plan;

(4) an individual shall be considered to be an ''annuitant of an agency'' if such individual is entitled to an annuity, under a retirement system established by or under Federal law, by virtue of—

(A) such individual's service with, and separation from, such agency; or

(B) being the survivor of an annuitant under subparagraph (A) or of an individual who died while employed by such agency; and

(5) the term ''Office'' means the Office of Personnel Management.

(b) PREFUNDING REQUIREMENT.—

(1) IN GENERAL.—Effective as of October 1, 1996, each agency shall be required to prepay the Government contributions which are or will be required in connection with providing health-benefits coverage for annuitants of such agency.

(2) REGULATIONS.—The Office shall prescribe such regulations as may be necessary to carry out this section. The regulations shall be designed to ensure at least the following:

(A) Amounts paid by each agency shall be sufficient to cover the amounts which would otherwise be payable by such agency (on a ''pay-as-you-go'' basis), on or after the applicable effective date under paragraph (1), on behalf of—

(i) individuals who are annuitants of the agency as of such effective date; and

(ii) individuals who are employed by the agency as of such effective date, or who become employed by the agency after such effective date, after such individuals have become annuitants of the agency (including their survivors).

(B)(i) For purposes of determining any amounts payable by an agency—

(I) this section shall be treated as if it had taken effect at the beginning of the 20-year period which ends on the effective date applicable under paragraph (1) with respect to such agency; and

(II) in addition to any amounts payable under subparagraph (A), each agency shall also be responsible for paying any amounts for which it would have been responsible, with respect to the 20-year period described in subclause (I), in connection with any individuals who are annuitants or employees of the agency as of the applicable effective date under paragraph (1).

(ii) Any amounts payable under this subparagraph for periods preceding the applicable effective date under paragraph (1) shall be payable in equal installments over the 20-year period beginning on such effective date.

(c) FASB STANDARDS.—Regulations under subsection (b) shall be in conformance with the provisions of standard 106 of the Financial Accounting Standards Board, issued in December 1990.

(d) CLARIFICATION.—Nothing in this section shall be considered to permit or require duplicative payments on behalf of any individuals.

(e) DRAFT LEGISLATION.—The Office shall prepare and submit to Congress any draft legislation which may be necessary in order to carry out this section.

SEC. 13104. APPLICATION OF OMB CIRCULAR A–129.

The provisions of Office of Management and Budget Circular No. A–129, relating to policies for Federal credit programs and nontax receivables, as in effect on the date of enactment of this Act, shall apply as provided in that circular.

SEC. 13105. 7-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND EXCISE TAXES.

(a) EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—Subsection (e) of section 4611 of the Internal Revenue Code of 1986 is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 2003.''

(b) EXTENSION OF REPAYMENT DEADLINE FOR SUPERFUND BORROWING.—Subparagraph (B) of section 9507(d)(3) of such Code is amended by striking ''December 31, 1995'' and inserting ''December 31, 2002''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

TITLE XIV—BUDGET PROCESS PROVISIONS

CHAPTER 1—SHORT TITLE; PURPOSE

SEC. 14001. SHORT TITLE.

This title may be cited as the ''Balanced Budget Enforcement Act of 1995''.

SEC. 14002. PURPOSE.

The purpose of this title is to enforce a path toward a balanced budget by fiscal year 2002 and to make Federal budget process more honest and open.

CHAPTER 2—BUDGET ESTIMATES

SEC. 14051. BOARD OF ESTIMATES.

(a) ESTABLISHMENT.—There is established a Board of Estimates.

(b) DUTIES OF THE BOARD.—(1) On the dates specified in section 254, the Board shall issue a report to the President and the Congress which states whether it has chosen (with no modification)—

(A) the sequestration preview report for the budget year submitted by OMB under section 254(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 or the report for that year submitted by CBO under that section; and

(B) the final sequestration report for the budget year submitted by OMB under section 254(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 or the report for that year submitted by CBO under that section;

that shall be used for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, chapter 11 of title 31, United States Code, and section 403 of the Congressional Budget Act of 1974. In making its choice, the Board shall choose the report that, in its opinion, is the more accurate.

(2) At any time the Board may change the list of major estimating assumptions to be used by OMB and CBO in preparing their sequestration preview reports.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members, the chairman of the Board of Governors of the Federal Reserve System and 4 other members to be appointed by the President as follows:

(A) One from a list of at least 5 individuals nominated for such appointment by the Speaker of the House of Representatives.

(B) One from a list of at least 5 individuals nominated for such appointment by the majority leader of the Senate.

(C) One from a list of at least 5 individuals nominated for such appointment by the minority leader of the House of Representatives.

(D) One from a list of at least 5 individuals nominated for such appointment by the minority leader of the Senate.

No member appointed by the President may be an officer or employee of any government. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(2) CONTINUATION OF MEMBERSHIP.—If any member of the Board appointed by the President becomes an officer or employee of a government, he may continue as a member of the Board for not longer than the 30-day period beginning on the date he becomes such an officer or employee.

(3) TERMS.—(A) Members shall be appointed for terms of 4 years.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4) BASIC PAY.—Members of the Board shall serve without pay.

(5) QUORUM.—Three members of the Board shall constitute a quorum but a lesser number may hold hearings.

(6) CHAIRMAN.—The Chairman of the Board shall be chosen annually by its members.

(7) MEETINGS.—The Board shall meet at the call of the Chairman or a majority of its members.

(d) DIRECTOR AND STAFF.—

(1) APPOINTMENT.—The Board shall have a Director who shall be appointed by the members of the Board. Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of such personnel as the Director considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service,

and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(3) STAFF OF FEDERAL AGENCIES.—Upon request of the Board, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its duties, notwithstanding section 202(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(a)).

(e) POWERS.—

(1) HEARINGS AND SESSIONS.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as it considers appropriate.

(2) OBTAINING OFFICIAL DATA.—The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the Chairman of the Board, the head of such department or agency shall furnish such information to the Board.

(3) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(f) DEFINITIONS.—As used in this section:

(1) The term ''Board'' refers to the Board of Estimates established by subsection (a).

(2) The term ''CBO'' refers to the Director of the Congressional Budget Office.

(3) The term ''OMB'' refers to the Director of the Office of Management and Budget.

Subtitle B—Discretionary Spending Limits

SEC. 14101. DISCRETIONARY SPENDING LIMITS.

(a) LIMITS.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (A), (B), (C), (D), and (F), by redesignating subparagraph (E) as subparagraph (A) and by striking ''and'' at the end of that subparagraph, and by inserting after subparagraph (A) the following new subparagraphs:

''(B) with respect to fiscal year 1996, $498,113,000,000 in new budget authority and $536,600,000,000 in outlays;

''(C) with respect to fiscal year 1997, $497,200,000,000 in new budget authority and $530,200,000,000 in outlays;

''(D) with respect to fiscal year 1998, $496,700,000,000 in new budget authority and $526,100,000,000 in outlays;

''(E) with respect to fiscal year 1999, $495,700,000,000 in new budget authority and $524,200,000,000 in outlays;

''(F) with respect to fiscal year 2000, $497,700,000,000 in new budget authority and $523,300,000,000 in outlays;

''(G) with respect to fiscal year 2001, $506,700,000,000 in new budget authority and $529,500,000,000 in outlays; and

''(H) with respect to fiscal year 2002, $509,700,000,000 in new budget authority and $529,500,000,000 in outlays.''.

(b) COMMITTEE ALLOCATIONS AND ENFORCEMENT.—Section 602 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (c), by striking ''1995'' and inserting ''2002'' and by striking its last sentence; and

(2) in subsection (d), by striking ''1992 TO 1995'' in the side heading and inserting ''1995 TO 2002'' and by striking ''1992 through 1995'' and inserting ''1995 through 2002''.

(c) FIVE-YEAR BUDGET RESOLUTIONS.—Section 606 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a), by striking ''for fiscal year 1992, 1993, 1994, or 1995''; and

(2) in subsection (d)(1), by striking ''for fiscal years 1992, 1993, 1994, and 1995'' and by striking ''(i) and (ii)''.

(d) EFFECTIVE DATE REPEALER.—(1) Section 607 of the Congressional Budget Act of 1974 is repealed.

(2) The item relating to section 607 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is repealed.

(e) SEQUESTRATION REGARDING CRIME TRUST FUND.—(1) Section 251A(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (B), (C), and (D) and its last sentence and inserting the following:

''(B) For fiscal year 1996, $2,227,000,000.

''(C) For fiscal year 1997, $3,846,000,000.

''(D) For fiscal year 1998, $4,901,000,000.

''(E) For fiscal year 1999, $5,639,000,000.

''(F) For fiscal year 2000, $6,225,000,000.

''The appropriate levels of new budget authority are as follows: for fiscal year 1996, $4,087,000,000; for fiscal year 1997, $5,000,000,000; for fiscal year 1998, $5,500,000,000; for fiscal year 1999, $6,500,000,000; for fiscal year 2000, $6,500,000,000.''.

(2) The last two sentences of section 310002 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14212) are repealed.

SEC. 14102. TECHNICAL AND CONFORMING CHANGES.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first sentence and inserting the following: ''This part provides for the enforcement of deficit reduction through discretionary spending limits and pay-as-you-go requirements for fiscal years 1995 through 2002.''.

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (6) and inserting the following:

''(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.'';

(2) in paragraph (9), by striking ''1992'' and inserting ''1996''; and

(3) in paragraph (14), by striking ''1995'' and inserting ''2002''.

SEC. 14103. ELIMINATION OF CERTAIN ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking ''1991–1998'' and inserting ''1995–2002'';

(2) in the first sentence of subsection (b)(1), by striking ''1992, 1993, 1994, 1995, 1996, 1997 or 1998'' and inserting ''1995, 1996, 1997, 1998, 1999, 2000, 2001, or 2002'' and by striking ''through 1998'' and inserting ''through 2002'';

(3) in subsection (b)(1), by striking subparagraphs (B) and (C) and by striking ''the following:'' and all that follows through ''The adjustments'' and inserting ''the following: the adjustments'';

(4) in subsection (b)(2), by striking ''1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998'' and inserting ''1995, 1996, 1997, 1998, 1999, 2000, 2001, or 2002'' and by striking ''through 1998'' and inserting ''through 2002''; and

(5) by repealing subsection (b)(2).

Subtitle C—Pay-As-You-Go Procedures

SEC. 14201. PERMANENT EXTENSION OF PAY-AS-YOU-GO PROCEDURES; TEN-YEAR SCOREKEEPING.

(a) TEN-YEAR SCOREKEEPING.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking ''FISCAL YEARS 1992–1998''; and

(2) in subsection (d), by striking ''each fiscal year through fiscal year 1998'' each place it appears and inserting ''each of the 10 succeeding fiscal years following enactment of any direct spending or receipts legislation''.

(b) REPEAL OF EMERGENCIES.—Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(c) PAY-AS-YOU-GO SCORECARD.—Upon enactment of this Act, the Director of the Office of Management and Budget shall reduce the balances of direct spending and receipts legislation applicable to each fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 by an amount equal to the net deficit reduction achieved through the enactment of this Act of direct spending and receipts legislation for that year.

(d) PAY-AS-YOU-GO POINT OF ORDER.—Section 311 of the Congressional Budget Act of 1974 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(d) PAY-AS-YOU-GO POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would increase the deficit above the maximum deficit amount set forth in section 253 for the budget year or any of the 9 succeeding fiscal years after the budget year, as measured by the sum of all applicable estimates of direct spending and receipts legislation applicable to that fiscal year.''.

SEC. 14202. ELIMINATION OF EMERGENCY EXCEPTION.

(a) SEQUESTRATION.—Section 252(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraph (B), by striking the dash after ''from'', and by striking ''(A)''.

(b) TECHNICAL CHANGE.—Section 252(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting ''in the manner described in section 256.'' after ''accounts'' the first place it appears and by striking the remainder of the subsection.

Subtitle D—Miscellaneous

SEC. 14301. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled ''Modification of Presidential Order'', is repealed.

SEC. 14302. REPEAL OF EXPIRATION DATE.

(a) EXPIRATION.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by repealing subsection (b) and by redesignating subsection (c) as subsection (b).

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note; 2 U.S.C. 665 note) is repealed.

Subtitle E—Deficit Control

SEC. 14401. DEFICIT CONTROL.

(a) DEFICIT CONTROL.—Part D of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''Part D—Deficit Control

''SEC. 261. ESTABLISHMENT OF DEFICIT TARGETS.

''The deficit targets are as follows:

''Fiscal year	Deficit (in billions of dollars)
1996	179.2
1997	160.4
1998	132.5
1999	111.0
2000	85.3
2001	41.0
2002	0

The deficit target for each fiscal year after 2002 shall be zero.

"SEC. 262. SPECIAL DEFICIT MESSAGE BY PRESIDENT.

''(a) SPECIAL MESSAGE.—If the OMB sequestration preview report submitted under section 254(d) indicates that deficit for the budget year or any outyear will exceed the applicable deficit target, or that the actual deficit target in the most recently completed fiscal year exceeded the applicable deficit target, the budget submitted under section 1105(a) of title 31, United States Code, shall include a special deficit message that includes proposed legislative changes to offset the net deficit impact of the excess identified by that OMB sequestration preview report for each such year through any combination of:

''(1) Reductions in outlays.

''(2) Increases in revenues.

''(3) Increases in the deficit targets, if the President submits a written determination that, because of economic or programmatic reasons, only some or none of the excess should be offset.

''(b) INTRODUCTION OF PRESIDENT'S PACKAGE.—Within 10 days after the President submitted a special deficit message, the text referred to in subsection (a) shall be introduced as a joint resolution in the House of Representatives by the chairman of its Committee on the Budget and in the Senate by the chairman of its Committee on the Budget. If the chairman fails to do so, after the 10th day the resolution may be introduced by any Member of the House of Representatives or the Senate, as the case may be. A joint resolution introduced under this subsection shall be referred to the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"SEC. 263. CONGRESSIONAL ACTION REQUIRED.

''(a) IN GENERAL.—The requirements of this section shall be in effect for any year in which the OMB sequestration preview report submitted under section 254(d) indicates that the deficit for the budget year or any outyear will exceed the applicable deficit target.

''(b) REQUIREMENTS FOR SPECIAL BUDGET RESOLUTION IN THE HOUSE.—The Committee on the Budget in the House shall report not later than March 15 a joint resolution, either as a separate section of the joint resolution on the budget reported pursuant to section 301 of the Congressional Budget Act of 1974 or as a separate resolution, that includes reconciliation instructions instructing the appropriate committees of the House and Senate to report changes in laws within their jurisdiction to offset any excess in the deficit identified in the OMB sequestration preview report submitted under section 254(d) as follows:

''(1) Reductions in outlays.

''(2) Increases in revenues.

''(3) Increases in the deficit targets, except that any increase in those targets may not be greater than the increase included in the special reconciliation message submitted by the President.

''(c) PROCEDURE IF HOUSE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

''(1) AUTOMATIC DISCHARGE OF HOUSE BUDGET COMMITTEE.—In the event that the House Committee on the Budget fails to report a resolution meeting the requirements of subsection (b), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to section 5(b), and the joint resolution shall be placed on the appropriate calendar.

''(2) CONSIDERATION BY HOUSE OF DISCHARGED RESOLUTION.—Ten days after the House Committee on the Budget has been discharged under paragraph (1), any member may move that the House proceed to consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution. Consideration of such resolution shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

''(d) CONSIDERATION BY THE HOUSE OF REPRESENTATIVES.—(1) It shall not be in order in the House of Representatives to consider a joint resolution on the budget unless that joint resolution fully addresses the entirety of any excess of the deficit targets as identified in the OMB sequestration preview report submitted under section 254(d) through reconciliation instructions requiring spending reductions, or changes in the deficit targets.

''(2) If the joint resolution on the budget proposes to eliminate or offset less than the entire excess for budget year and any subsequent fiscal years, then the Committee on the Budget shall report a separate resolution increasing the deficit targets for each applicable year by the full amount of the excess not offset or eliminated. It shall not be in order to consider any joint resolution on the budget that does not offset the full amount of the excess until the House of Representatives has agreed to the resolution directing the increase in the deficit targets.

''(e) TRANSMITTAL TO SENATE.—If a joint resolution passes the House pursuant to subsection (d), the Clerk of the House of Representatives shall cause the resolution to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the resolution is passed. The resolution shall be referred to the Senate Committee on the Budget.

''(f) REQUIREMENTS FOR SPECIAL BUDGET RESOLUTION IN THE SENATE.—The Committee on the Budget in the Senate shall report not later than April 1 a joint resolution, either as a separate section of a budget resolution reported pursuant to section 301 of the Congressional Budget Act of 1974 or as a separate resolution, that shall include reconciliation instructions instructing the appropriate committees of the House and Senate to report changes in laws within their jurisdiction to offset any excess through any combination of:

''(1) Reductions in outlays.

''(2) Increases in revenues.

''(3) Increases in the deficit targets, except that any increase in those targets may not be greater than the increase included in the special reconciliation message submitted by the President.

''(g) PROCEDURE IF SENATE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

''(1) AUTOMATIC DISCHARGE OF SENATE BUDGET COMMITTEE.—In the event that the Senate Committee on the Budget fails to report a resolution meeting the requirements of subsection (f), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to section 5(b), and the joint resolution shall be placed on the appropriate calendar.

''(2) CONSIDERATION BY SENATE OF DISCHARGED RESOLUTION.—Ten days after the Senate Committee on the Budget has been discharged under paragraph (1), any member may move that the Senate proceed to consider the resolution. Such motion shall be privileged and not debatable. Consideration of such resolution shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (h).

''(h) CONSIDERATION BY SENATE.—(1) It shall not be in order in the Senate to consider a joint resolution on the budget unless that joint resolution fully addresses the entirety of any excess of the deficit targets as identified in the OMB sequestration report submitted under section 254(d) through reconciliation instructions requiring deficit reductions, or changes in the deficit targets.

''(2) If the joint resolution on the budget proposes to eliminate or offset less than the entire overage of a budget year, then the Committee on the Budget shall report a resolution increasing the deficit target by the full amount of the overage not eliminated. It shall not be in order to consider any joint resolution on the budget that does not offset the entire amount of the overage until the Senate has agreed to the resolution directing the increase in the deficit targets.

''(i) CONFERENCE REPORTS MUST FULLY ADDRESS DEFICIT EXCESS.—It shall not be in order in the House of Representatives or the Senate to consider a conference report on a joint resolution on the budget unless that conference report fully addresses the entirety of any excess identified by the OMB sequestration preview report submitted pursuant to section 254(d) through reconciliation instructions requiring deficit reductions, or changes in the deficit targets.

"SEC. 264. COMPREHENSIVE SEQUESTRATION.

''(a) SEQUESTRATION BASED ON BUDGET-YEAR SHORTFALL.—The amount to be sequestered for the budget year is the amount (if any) by which deficit exceeds the cap for that year under section 261 or the amount that the actual deficit in the preceding fiscal year exceeded the applicable deficit target.

''(b) SEQUESTRATION.—Within 15 days after Congress adjourns to end a session and on May 15, there shall be a sequestration to reduce the amount of deficit in the current policy baseline and to repay any deficit excess in the most recently completed fiscal year by the amounts specified in subsection (b). The amount required to be sequestered shall be achieved by reducing each spending account (or activity within an account) by the uniform percentage necessary to achieve that amount.''.

(c) CONFORMING CHANGES.—(1) The table of sections set forth in section 200 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the items relating to part D and inserting the following:

''Sec. 261. Establishment of deficit targets.
''Sec. 262. Special deficit message by President.
''Sec. 263. Congressional action required.
''Sec. 264. Comprehensive sequestration.''.

(2) Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting ''or in part D'' after ''As used in this part''.

SEC. 14402. SEQUESTRATION PROCESS.

(a) ESTIMATING ASSUMPTIONS, REPORTS, AND ORDERS.—Sections 254, 255, and 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended to read as follows:

"SEC. 254. ESTIMATING ASSUMPTIONS, REPORTS, AND ORDERS.

''(a) TIMETABLE.—The timetable with respect to this part for any budget year is as follows:

Date:	Action to be completed:
Dec. 31	OMB and CBO sequestration preview reports submitted to Board.
Jan. 15	Board selects sequestration preview report.
The President's budget submission.	OMB publishes sequestration preview report.
May 1	OMB and CBO sequestration reports submitted to Board.
5 days later	Board selected midsession sequestration report.

Date:	Action to be completed:
May 15	President issues sequestration order.
August 29	President's midsession review; notification regarding military personnel.
Within 10 days after end of session.	OMB and CBO final budget year sequestration reports submitted to Board.
5 days later	Board selects final sequestration report; President issues sequestration order.

''(b) SUBMISSION AND AVAILABILITY OF REPORTS.—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate, OMB, and the Board and, in the case of OMB, to the House of Representatives, the Senate, the President, and the Board on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

''(c) EXCHANGE OF PRELIMINARY CURRENT POLICY BASELINES.—On December 15 or 3 weeks after Congress adjourns to end a session, whichever is later, OMB and CBO shall exchange their preliminary current policy baselines for the budget-year session starting in January.

''(d) SEQUESTRATION PREVIEW REPORTS.—

''(1) REPORTING REQUIREMENT.—On December 31 or 2 weeks after exchanging preliminary current policy baselines, whichever is later, OMB and CBO shall each submit a sequestration preview report.

''(2) CONTENTS.—Each preview report shall set forth the following:

''(A) MAJOR ESTIMATING ASSUMPTIONS.—The major estimating assumptions for the current year, the budget year, and the outyears, and an explanation of them.

''(B) CURRENT POLICY BASELINE.—A detailed display of the current policy baseline for the current year, the budget year, and the outyears, with an explanation of changes in the baseline since it was last issued that includes the effect of policy decisions made during the intervening period and an explanation of the differences between OMB and CBO for each item set forth in the report.

''(C) DEFICITS.—Estimates for the most recently completed fiscal year, the budget year, and each subsequent year through fiscal year 2002 of the deficits or surpluses in the current policy baseline.

''(D) DISCRETIONARY SPENDING LIMITS.—Estimates for the current year and each subsequent year through 2002 of the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

''(E) SEQUESTRATION OF DISCRETIONARY ACCOUNTS.—Estimates of the uniform percentage and the amount of budgetary resources to be sequestered from discretionary programs given the baseline level of appropriations, and if the President chooses to exempt some or all military personnel from sequestration, the effect of that decision on the percentage and amounts.

''(F) PAY-AS-YOU-GO SEQUESTRATION REPORTS.—The preview reports shall set forth, for the current year and the budget year, estimates for each of the following:

''(i) The amount of net deficit increase or decrease, if any, calculated under section 252(b).

''(ii) A list identifying each law enacted and sequestration implemented after the date of enactment of this section included in the calculation of the amount of deficit increase or decrease and specifying the budgetary effect of each such law.

''(iii) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 252(c).

''(G) REQUIREMENTS FOR THE DEFICIT.—An estimate of the amount of deficit reduction, if any, to be achieved for the budget year and the current year necessary to comply with the deficit targets or to repay any deficit excess in the preceding fiscal year.

''(H) DEFICIT SEQUESTRATION.—Estimates of the uniform percentage and the amount of comprehensive sequestration of spending programs that will be necessary under section 264.

''(I) AMOUNT OF CHANGE IN DEFICIT PROJECTIONS.—Amounts that deficit projections for the current year and the budget year have changed as a result of changes in economic and technical assumptions occurring after the enactment of the Omnibus Budget Reconciliation Act of 1995.

''(e) SELECTION OF OFFICIAL SEQUESTRATION PREVIEW REPORT.—On January 15 or 2 weeks after receiving the OMB and CBO sequestration preview reports, whichever is later, the Board shall choose either the OMB or CBO sequestration preview report as the official report for purposes of this Act. The Board shall add to the chosen report an analysis of which reports submitted in previous years have proven to be more accurate and recommendations about methods of improving the accuracy of future reports. That report shall be set forth, without change, in the budget submitted by the President under section 1105(a) of title 31, United States Code, for the budget year.

''(f) AGREEING ON EARLIER DATES.—The Chairman of the Board may set earlier dates for subsections (c), (d), and (e) if OMB and CBO concur.

''(g) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before August 29, the President shall notify the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 251(a)(3).

''(h) FINAL SEQUESTRATION REPORTS.—

''(1) REPORTING REQUIREMENT.—Not later than 10 days following the end of a budget-year session, OMB and CBO shall each submit a final sequestration report. On May 1 of each year, OMB and CBO shall each submit a midyear sequestration report for the current year.

''(2) CONTENTS.—Each such report shall be based upon laws enacted through the date of the report and shall set forth all the information and estimates required of a sequestration preview report required by subsections (d)(2)(D) through (H). In addition, that report shall include—

''(A) for each account to be sequestered, the baseline level of sequestrable budgetary resources and the resulting reductions in new budget authority and outlays; and

''(B) the effects of sequestration on the level of outlays for each fiscal year through 2002.

''(i) SELECTION OF OFFICIAL FINAL SEQUESTRATION REPORT.—Not later than 5 days after receiving the final OMB and CBO sequestration reports, the Board shall choose either the OMB or CBO final sequestration report as the official report for purposes of this Act, and shall issue a report stating that decision and making any comments that the Board chooses.

''(j) PRESIDENTIAL ORDER.—(1) On the day that the Board chooses a final sequestration report, the President shall issue an order fully implementing without change all sequestrations required by—

''(A) the final sequestration report that requires the lesser amount of discretionary sequestration under section 250; and

''(B) the final sequestration report that requires the lesser total amount of deficit sequestration under section 264.

The order shall be effective on issuance and shall be issued only if sequestration is required.

''(2)(A) If both the CBO and OMB final sequestration reports require a sequestration of discretionary programs, and the Board chooses the report requiring the greater sequestration, then a positive amount equal to the difference between the CBO and OMB estimates of discretionary new budget authority for the budget year shall be subtracted from the budget-year column and added to the column for the first outyear of the discretionary scorecard under section 107 as though that amount had been enacted in the next session of Congress.

''(B) If one final sequestration report requires a sequestration of discretionary programs and the Board chooses that report, then an amount equal to the difference between that report's estimate of discretionary new budget authority for the budget year and the discretionary funding limit for that year shall be subtracted from the budget-year column and added to column for the first outyear of the discretionary scorecard under section 107 as though that amount had been enacted in the next session of Congress.

''(k) USE OF MAJOR ESTIMATING ASSUMPTIONS AND SCOREKEEPING CONVENTIONS.—In the estimates, projections, and reports under subsections (c) and (d), CBO and OMB shall use the best and most recent estimating assumptions available. In all other reports required by this section and in all estimates or calculations required by this Act, CBO and OMB shall use—

''(1) current-year and budget-year discretionary funding limits chosen by the Board and the estimates chosen by the Board of the deficit reduction necessary to comply with the deficit targets in the budget year;

''(2) in estimating the effects of bills and discretionary regulations, the major estimating assumptions most recently chosen by the Board, except to the extent that they must be altered to reflect actual results occurring or measured after the Board's choice; and

''(3) scorekeeping conventions determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

In applying the two previous sentences, the major estimating assumptions and other calculations required by this Act that are included in the statement of managers accompanying the conference report on this Act shall be considered, for all purposes of this Act, to be the report of the Board chosen under subsection (e) for fiscal year 1993.

''(l) BILL COST ESTIMATES.—Within 10 days after the enactment of any discretionary appropriations, direct spending, or receipts legislation, CBO and OMB shall transmit to each other, the Board, and to the Congress an estimate of the budgetary effects of that law, following the estimating requirements of this section. Those estimates may not change after the 10-day period except—

''(1) to the extent those estimates are subsumed within (and implicitly changed by) the estimates made in preparation of a new baseline under subsections (c), (d), and (h);

''(2) to reflect a choice of the Board regarding an official set of estimates under subsections (l) and (n); and

''(3) to correct clerical errors or errors in the application of this Act.

''SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

''The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

''(1) net interest;

''(2) deposit insurance and pension benefit guarantees;

''(3) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

''(4) offsetting receipts and collections;

''(5) all payments from one Federal direct spending budget account to another Federal budget account; all intragovernmental funds including those from which funding is derived primarily from other Government accounts;

''(6) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

''(7) nonbudgetary activities, including but not limited to—

''(A) credit liquidating and financing accounts;

''(B) the Pension Benefit Guarantee Corporation Trust Funds;

''(C) the Thrift Savings Fund;

''(D) the Federal Reserve System; and

''(E) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

''(8) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

''(9) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–806);

Bureau of Indian Affairs, miscellaneous payments to Indians (14–2303–0–1–452);

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14–9973–0–7–999);

Claims, defense;

Claims, judgments, and relief act (20–1895–0–1–806);

Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);

Compensation of the President (11–0001–0–1–802);

Customs Service, miscellaneous permanent appropriations (20–9992–0–2–852);

Eastern Indian land claims settlement fund (14–2202–0–1–806)

Farm Credit System Financial Assistance Corporation, interest payments (20–1850–0–1–351);

Internal Revenue collections of Puerto Rico (20–5737–0–2–852);

Panama Canal Commission, operating expenses and capital outlay (95–5190–0–2–403);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153);

Payments to copyright owners (03–5175–0–2–376);

Payments to the United States territories, fiscal assistance (14–0418–0–1–801);

Salaries of Article III judges;

Soldier's and Airmen's Home, payment of claims (84–8930–0–7–705);

Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401).

''(10) the following noncredit special, revolving, or trust-revolving funds—

Coinage profit fund (20–5811–0–2–803);

Exchange Stabilization Fund (20–4444–0–3–155);

Foreign Military Sales trust fund (11–82232–0–7–155);

''(11)(A) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act);

''(B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act;

''(C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account;

''(12) the earned income tax credit (payments to individuals pursuant to section 32 of the Internal Revenue Code of 1986);

''(13) the uranium enrichment program; and

''(14) benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act.

"SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES.

''(a) PERMANENT SEQUESTRATION OF DEFICIT.—

''(1) The purpose of any sequestration under this Act is to ensure deficit reduction in the budget year and all subsequent fiscal years, so that the budget-year cap in section 262 is not exceeded.

''(2) Obligations in sequestered spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years. Notwithstanding any other provision of this section, after the first deficit sequestration, any later sequestration shall reduce spending outlays by an amount in addition to, rather than in lieu of, the reduction in spending outlays in place under the existing sequestration or sequestrations.

''(b) UNIFORM PERCENTAGES.—

''(1) In calculating the uniform percentage applicable to the sequestration of all spending programs or activities under section 266 the sequestrable base for spending programs and activities is the total budget-year level of outlays for those programs or activities in the current policy baseline minus—

''(A) those budget-year outlays resulting from obligations incurred in the current or prior fiscal years, and

(B) those budget-year outlays resulting from exemptions under section 253.

''(2) For any direct spending program in which—

''(A) outlays pay for entitlement benefits,

(B) a budget-year sequestration takes effect after the 1st day of the budget year, and

''(C) that delay reduces the amount of entitlement authority that is subject to sequestration in the budget year,

the uniform percentage otherwise applicable to the sequestration of that program in the budget year shall be increased as necessary to achieve the same budget-year outlay reduction in that program as would have been achieved had there been no delay.

''(3) If the uniform percentage otherwise applicable to the budget-year sequestration of a program or activity is increased under paragraph (2), then it shall revert to the uniform percentage calculated under paragraph (1) when the budget year is completed.

''(c) GENERAL RULES FOR SEQUESTRATION.—

''(1) INDEFINITE AUTHORITY.—Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage or percentages.

''(2) CANCELLATION OF BUDGETARY RESOURCES.—Budgetary resources sequestered from any account other than an entitlement trust, special, or revolving fund account shall revert to the Treasury and be permanently canceled or repealed.

''(3) INDEXED BENEFIT PAYMENTS.—If, under any entitlement program—

''(A) benefit payments are made to persons or governments more frequently than once a year, and

''(B) the amount of entitlement authority is periodically adjusted under existing law to reflect changes in a price index,

then for the first fiscal year to which a sequestration order applies, the benefit reductions in that program accomplished by the order shall take effect starting with the payment made at the beginning of January or 7 weeks after the order is issued, whichever is later. For the purposes of this subsection, Veterans Compensation shall be considered a program that meets the conditions of the preceding sentence.

''(4) PROGRAMS, PROJECTS, OR ACTIVITIES.—Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

''(5) IMPLEMENTING REGULATIONS.—Administrative regulations or similar actions implementing the sequestration of a program or activity shall be made within 120 days of the effective date of the sequestration of that program or activity.

''(6) DISTRIBUTION FORMULAS.—To the extent that distribution or allocation formulas differ at different levels of budgetary resources within an account, program, project, or activity, a sequestration shall be interpreted as producing a lower total appropriation, with that lower appropriation being obligated as though it had been the pre-sequestration appropriation and no sequestration had occurred.

''(7) CONTINGENT FEES.—In any account for which fees charged to the public are legally determined by the level of appropriations, fees shall be charged on the basis of the presequestration level of appropriations.

''(d) NON-JOBS PORTION OF AFDC.—Any sequestration order shall accomplish the full amount of any required reduction in payments for the non-jobs portion of the aid to families with dependant children program under the Social Security Act by reducing the Federal reimbursement percentage (for the fiscal year involved) by multiplying that reimbursement percentage, on a State-by-State basis, by the uniform percentage applicable to the sequestration of nonexempt direct spending programs or activities.

''(e) JOBS PORTION OF AFDC.—

''(1) FULL AMOUNT OF SEQUESTRATION REQUIRED.—Any sequestration order shall accomplish the full amount of any required reduction of the job opportunities and basic skills training program under section 402(a)(19), and part F of title VI, of the Social Security Act, in the manner specified in this subsection. Such an order may not reduce any Federal matching rate pursuant to section 403(l) of the Social Security Act.

''(2) NEW ALLOTMENT FORMULA.—

''(A) GENERAL RULE.—Notwithstanding section 403(k) of the Social Security Act, each State's percentage share of the amount available after sequestration for direct spending pursuant to section 403(l) of such Act shall be equal to that percentage of the total amount paid to the States pursuant to such section 403(l) for the prior fiscal year that is represented by the amount paid to such State pursuant to such section 403(l) for the prior fiscal year, except that a State may not be allotted an amount under this

subparagraph that exceeds the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

''(B) REALLOTMENT OF AMOUNTS REMAINING UNALLOTTED AFTER APPLICATION OF GENERAL RULE.—Any amount made available after sequestration for direct spending pursuant to section 403(l) of the Social Security Act that remains unallotted as a result of subparagraph (A) of this paragraph shall be allotted among the States in proportion to the absolute difference between the amount allotted, respectively, to each State as a result of such subparagraph and the amount that would have been allotted to such State pursuant to section 403(k) of such Act had the sequestration not been in effect, except that a State may not be allotted an amount under this subparagraph that results in a total allotment to the State under this paragraph of more than the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

''(f) CHILD SUPPORT ENFORCEMENT PROGRAM.—Any sequestration order shall accomplish the full amount of any required reduction in payments under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under the program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

''(g) COMMODITY CREDIT CORPORATION.—

''(1) EFFECTIVE DATE.—For the Commodity Credit Corporation, the date on which a sequestration order takes effect in a fiscal year shall vary for each crop of a commodity. In general, the sequestration order shall take effect when issued, but for each crop of a commodity for which 1-year contracts are issued as an entitlement, the sequestration order shall take effect with the start of the sign-up period for that crop that begins after the sequestration order is issued. Payments for each contract in such a crop shall be reduced under the same terms and conditions.

''(2) DAIRY PROGRAM.—(A) As the sole means of achieving any reduction in outlays under the milk price-support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundredweight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued, and shall not exceed the aggregate amount of the reduction in outlays under the milk price-support program, that otherwise would have been achieved by reducing payments made for the purchase of milk or the products of milk under this subsection during that fiscal year.

''(3) EFFECT OF DELAY.—For purposes of subsection (b)(1), the sequestrable base for the Commodity Credit Corporation is the budget-year level of gross outlays resulting from new budget authority that is subject to reduction under paragraphs (1) and (2), and subsection (b)(2) shall not apply.

''(4) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this Act shall restrict the Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, or limit or reduce in any way any appropriation that provides the Corporation with funds to cover its net realized losses.

''(h) EXTENDED UNEMPLOYMENT COMPENSATION.—(1) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under any sequestration order by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

''(2) A reduction by a State in accordance with subparagraph (A) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1986.

''(i) FEDERAL EMPLOYEES HEALTH BENEFITS FUND.—For the Federal Employees Health Benefits Fund, a sequestration order shall take effect with the next open season. The sequestration shall be accomplished by annual payments from that Fund to the General Fund of the Treasury. Those annual payments shall be financed solely by charging higher premiums. For purposes of subsection (b)(1), the sequestrable base for the Fund is the budget-year level of gross outlays resulting from claims paid after the sequestration order takes effect, and subsection (b)(2) shall not apply.

''(j) FEDERAL HOUSING FINANCE BOARD.—Any sequestration of the Federal Housing Finance Board shall be accomplished by annual payments (by the end of each fiscal year) from that Board to the general fund of the Treasury, in amounts equal to the uniform sequestration percentage for that year times the gross obligations of the Board in that year.

''(k) FEDERAL PAY.—

''(1) IN GENERAL.—Except as provided in section 10(b)(3), new budget authority to pay Federal personnel from direct spending accounts shall be reduced by the uniform percentage calculated under section 264, as applicable, but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system (as increased by any amount payable under section 5304 of title 5, United States Code, or section 302 of the Federal Employees Pay Comparability Act of 1990) or the rate of any element of military pay to which any individual is entitled under title 37, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1009 of title 37, United States Code, or any other provision of law.

''(2) DEFINITIONS.—For purposes of this subsection:

''(A) The term 'statutory pay system' shall have the meaning given that term in section 5302(1) of title 5, United States Code.

''(B) The term 'elements of military pay' means—

''(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code,

''(ii) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

''(iii) cadet pay and midshipman pay under section 203(c) of such title.

''(C) The term 'uniformed services' shall have the meaning given that term in section 101(3) of title 37, United States Code.

''(l) GUARANTEED STUDENT LOANS.—(A) For all student loans under part B of title IV of the Higher Education Act of 1965 made on or after the date of a sequestration, the origination fees shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs for the fiscal year of the sequestration required by section 264, and all subsequent origination fees shall be increased by the same percentage, notwithstanding any other provision of law.

''(B) The origination fees to which paragraph (A) applies are those specified in sections 428H(f)(1) and 438(c) of that Act.

''(m) INSURANCE PROGRAMS.—Any sequestration in a Federal program that sells insurance contracts to the public (including the Federal Crop Insurance Fund, the National Insurance Development Fund, the National Flood Insurance Fund, insurance activities of the Overseas Private Insurance Corporation, and Veterans' life insurance programs) shall be accomplished by annual payments from the insurance fund or account to the general fund of the Treasury. The amount of each annual payment by each such fund or account shall be the amount received by the fund or account by increasing premiums on contracts entered into after the date a sequestration order takes effect by the uniform sequestration percentage, and premiums shall be increased accordingly.

''(n) MEDICAID.—The November 15th estimate of medicaid spending by States shall be the base estimate from which the uniform percentage reduction under any sequestration, applied across-the-board by State, shall be made. Succeeding Federal payments to States shall reflect that reduction. The Health Care Financing Administration shall reconcile actual medicaid spending for each fiscal year with the base estimate as reduced by the uniform percentage, and adjust each State's grants as soon as practicable, but no later than 100 days after the end of the fiscal year to which the base estimate applied, to comply with the sequestration order.

''(o) MEDICARE.—

''(1) TIMING OF APPLICATION OF REDUCTIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

''(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

''(2) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made pursuant to a sequestration order for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

''(p) POSTAL SERVICE FUND.—Any sequestration of the Postal Service Fund shall be accomplished by annual payments from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States shall have the duty to make those

payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment shall be—

''(1) the uniform sequestration percentage, times

''(2) the estimated gross obligations of the Postal Service Fund in that year other than those obligations financed with an appropriation for revenue foregone for that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Within 30 days after the sequestration order is issued, the Postmaster General shall submit to the Postal Rate Commission a plan for financing the annual payment for that fiscal year and publish that plan in the Federal Register. The plan may assume efficiencies in the operation of the Postal Service, reductions in capital expenditures, increases in the prices of services, or any combination, but may not assume a lower Fund surplus or higher Fund deficit and must follow the requirements of existing law governing the Postal Service in all other respects. Within 30 days of the receipt of that plan, the Postal Rate Commission shall approve the plan or modify it in the manner that modifications are allowed under current law. If the Postal Rate Commission does not respond to the plan within 30 days, the plan submitted by the Postmaster General shall go into effect. Any plan may be later revised by the submission of a new plan to the Postal Rate Commission, which may approve or modify it.

''(q) POWER MARKETING ADMINISTRATIONS AND T.V.A.—Any sequestration of the Department of Energy power marketing administration funds or the Tennessee Valley Authority fund shall be accomplished by annual payments from those funds to the General Fund of the Treasury, and the administrators of those funds shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment by a fund shall be—

''(1) the uniform sequestration percentage, times

''(2) the estimated gross obligations of the fund in that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Annual payments by a fund may be financed by reductions in costs required to produce the presequester amount of power (but those reductions shall not include reductions in the amount of power supplied by the fund), by reductions in capital expenditures, by increases in rates, or by any combination, but may not be financed by a lower fund surplus or a higher fund deficit and must follow the requirements of existing law governing the fund in all other respects. The administrator of a fund or the TVA Board is authorized to take the actions specified above in order to make the annual payments to the Treasury.

''(r) VETERANS' HOUSING LOANS.—(1) For all housing loans guaranteed, insured, or made under chapter 37 of title 38, United States Code, on or after the date of a sequestration, the origination fees shall be increased by a uniform percentage sufficient to produce the dollar savings in veterans' housing programs for the fiscal year of the sequestration required by section 264, and all subsequent origination fees shall be increased by the same percentage, notwithstanding any other provision of law.

''(2) The origination fees to which paragraph (1) applies are those referred to in section 3729 of title 38, United States Code.''.

(b) CONFORMING CHANGES.—(1) The item relating to section 254 in the table of sections set forth in section 200 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''Sec. 254. Estimating assumptions, reports, and orders.''.

(2) The item relating to section 256 in the table of sections set forth in section 200 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''Sec. 256. General and special sequestration rules.''.

(c) Within 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each issue a report that includes projections of Federal spending, revenues, and deficits as a result of enactment of this Act and setting forth the economic and technical assumptions used to make those projections.

Subtitle F—Line Item Veto

SEC. 14501. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of the Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of the dollar amount of any discretionary budget authority specified in an appropriation Act for fiscal year 1996 or conference report or joint explanatory statement accompanying a conference report on the Act, or veto any targeted tax benefit provision in this reconciliation Act, if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than 10 calendar days (not including Sundays) after the date of the enactment of an appropriation Act providing such budget authority, or of this reconciliation Act in the case of a targeted tax benefit.

(b) DEFICIT REDUCTION.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) SEPARATE MESSAGES.—The President shall submit a separate special message under this section for each appropriation Act and for this reconciliation Act.

(d) LIMITATION.—No special message submitted by the President under this section may change any prohibition or limitation of discretionary budget authority set forth in any appropriation Act.

(e) SPECIAL RULE FOR PREVIOUSLY ENACTED APPROPRIATION ACTS.—Notwithstanding subsection (a)(2), in the case of any unobligated discretionary budget authority provided by any appropriation Act for fiscal year 1996 that is enacted before the date of the enactment of this Act, the President may rescind all or part of that discretionary budget authority under the terms of this subtitle if the President notifies the Congress of such rescission by a special message not later than 10 calendar days (not including Sundays) after the date of the enactment of this Act.

SEC. 14502. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a) IN GENERAL.—

(1) Any amount of budget authority rescinded under this subtitle as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under this subtitle as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) CONGRESSIONAL REVIEW PERIOD.—The period referred to in subsection (a) is—

(1) a congressional review period of 20 calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional 5 calendar days of session after the date of the veto.

(c) SPECIAL RULE.—If a special message is transmitted by the President under this subtitle and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 14503. DEFINITIONS.

As used in this subtitle:

(1) The term ''rescission/receipts disapproval bill'' means a bill which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this subtitle and—

(A)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: ''That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on _____.'', the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: ''That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on _____.'', the blank space being filled in with the appropriate date and the public law to which the message relates; and

(B) the title of which is as follows: ''A bill to disapprove the recommendations submitted by the President on _____.'', the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term ''calendar days of session'' shall mean only those days on which both Houses of Congress are in session.

(3) The term ''targeted tax benefit'' means any provision of this reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term ''appropriation Act'' means any general or special appropriation Act for fiscal year 1996, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations for fiscal year 1996.

SEC. 14504. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in this subtitle or vetoes any provision of law as provided in this subtitle, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to this subtitle;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under this subtitle shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this subtitle shall be printed in the first issue of the Federal Register published after such transmittal.

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under this subtitle.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. No amendment to the bill is in order, except any Member may move to strike the disapproval of any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this subtitle.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this subtitle.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under this subtitle.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 14505. REPORT OF THE GENERAL ACCOUNTING OFFICE.

On January 6, 1997, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for fiscal year 1996, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for fiscal year 1996, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for fiscal year 1996 and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for fiscal year 1996, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for fiscal year 1996, together with their total dollar value.

SEC. 14506. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this subtitle violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

(4) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for

the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

Subtitle G—Enforcing Points of Order

SEC. 14601. POINTS OF ORDER IN THE SENATE.

(a) WAIVER.—The second sentence of section 904(c) of the Congressional Budget Act of 1974 is amended by inserting ''303(a),'' after ''302(f),'', by inserting ''311(c),'' after ''311(a),'', by inserting ''606(b),'' after ''601(b),'', and by inserting ''253(d), 253(h), 253(i),'' before ''258(a)(4)(C)''.

(b) APPEALS.—The third sentence of section 904(c) of the Congressional Budget Act of 1974 is amended by inserting ''303(a),'' after ''302(f),'', by inserting ''311(c),'' after ''311(a),'', by inserting ''606(b),'' after ''601(b),'', and by inserting ''253(d), 253(h), 253(i),'' before ''258(a)(4)(C)''.

SEC. 14602. POINTS OF ORDER IN THE HOUSE OF REPRESENTATIVES.

Section 904 of the Congressional Budget Act of 1974 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) In the House of Representatives, a separate vote shall be required on that part of any resolution or order that makes in order the waiver of any points of order referred to in subsection (c).''.

Subtitle H—Deficit Reduction Lock-box

SEC. 14701. DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION MEASURES.

(a) DEFICIT REDUCTION LOCK-BOX PROVISIONS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

''DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION BILLS

''SEC. 314. (a) Any appropriation bill that is being marked up by the Committee on Appropriations (or a subcommittee thereof) of either House shall contain a line item entitled 'Deficit Reduction Lock-box'.

''(b) Whenever the Committee on Appropriations of either House reports an appropriation bill, that bill shall contain a line item entitled 'Deficit Reduction Account' comprised of the following:

''(1) Only in the case of any general appropriation bill containing the appropriations for Treasury and Postal Service (or resolution making continuing appropriations (if applicable)), an amount equal to the amounts by which the discretionary spending limit for new budget authority and outlays set forth in the most recent OMB sequestration preview report pursuant to section 601(a)(2) exceed the section 602(a) allocation for the fiscal year covered by that bill.

''(2) Only in the case of any general appropriation bill (or resolution making continuing appropriations (if applicable)), an amount not to exceed the amount by which the appropriate section 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill (as reported by that committee), but not less than the sum of reductions in budget authority resulting from adoption of amendments in the committee which were designated for deficit reduction.

''(3) Only in the case of any bill making supplemental appropriations following enactment of all general appropriation bills for the same fiscal year, an amount not to exceed the amount by which the section 602(a) allocation of new budget authority exceeds the sum of all new budget authority provided by appropriation bills enacted for that fiscal year plus that supplemental appropriation bill (as reported by that committee).

''(c) It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution that restricts the offering of amendments to any appropriation bill adjusting the level of budget authority contained in a Deficit Reduction Account.

''(d) Whenever a Member of either House of Congress offers an amendment (whether in subcommittee, committee, or on the floor) to an appropriation bill to reduce spending, that reduction shall be placed in the deficit reduction lock-box unless that Member indicates that it is to be utilized for another program, project, or activity covered by that bill. If the amendment is agreed to and the reduction was placed in the deficit reduction lock-box, then the line item entitled 'Deficit Reduction Lock-box' shall be increased by the amount of that reduction. Any amendment pursuant to this subsection shall be in order even if amendment portions of the bill are not read for amendment with respect to the Deficit Reduction Lock-box.

''(e) It shall not be in order in the House of Representatives or the Senate to consider a conference report or amendment of the Senate that modifies any Deficit Reduction Lock-box provision that is beyond the scope of that provision as so committed to the conference committee.

''(f) It shall not be in order to offer an amendment increasing the Deficit Reduction Lock-box Account unless the amendment increases rescissions or reduces appropriations by an equivalent or larger amount, except that it shall be in order to offer an amendment increasing the amount in the Deficit Reduction Lock-box by the amount that the appropriate 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill.

''(g) It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution which waives subsection (c).''.

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

''Sec. 314. Deficit reduction lock-box provisions of appropriation measures.''.

SEC. 14702. DOWNWARD ADJUSTMENTS.

(a) DOWNWARD ADJUSTMENTS.—The discretionary spending limit for new budget authority for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amount of budget authority transferred to the Deficit Reduction Lockbox for that fiscal year under section 314 of the Budget Control and Impoundment Act of 1974. The adjusted discretionary spending limit for outlays for that fiscal year and each outyear as set forth in such section 601(a)(2) shall be reduced as a result of the reduction of such budget authority, as calculated by the Director of the Office of Management and Budget based upon such programmatic and other assumptions set forth in the joint explanatory statement of managers accompanying the conference report on that bill. All such reductions shall occur within ten days of enactment of any appropriations bill.

(b) DEFINITION.—As used in this section, the term ''appropriation bill'' means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(c) RESCISSION.—Funds in the Deficit Reduction Lockbox shall be rescinded upon reductions in discretionary limits pursuant to subsection (a).

SEC. 14703. CBO TRACKING.

Section 202 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

''(i) SCOREKEEPING.—To facilitate compliance by the Committee on Appropriations with section 314, the Office shall score all general appropriation measures (including conference reports) as passed by the House of Representatives, as passed the Senate and as enacted into law. The scorecard shall include amounts contained in the Deficit Reduction Lock-Box. The chairman of the Committee on Appropriations of the House of Representatives or the Senate, as the case may be, shall have such scorecard published in the Congressional Record.''.

Subtitle I—Emergency Spending; Baseline Reform; Continuing Resolutions Reform

CHAPTER 1—EMERGENCY SPENDING

SEC. 14801. ESTABLISHMENT OF BUDGET RESERVE ACCOUNT.

(a) ESTABLISHMENT.—A budget reserve account (hereinafter in this section referred to as the ''account'') shall be established for the purpose of setting aside adequate funding for natural disasters and national security emergencies.

(b) PRIOR APPROPRIATION REQUIRED.—The account shall consist of such sums as may be provided in advance in appropriation Acts for a particular fiscal year.

(c) RESTRICTION ON USE OF FUNDS.—(1) Notwithstanding any other provision of law, the amounts in the account shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(2) Funds in the account that are not obligated during the fiscal year for which they are appropriated may only be used for deficit reduction purposes.

(d) NEW POINT OF ORDER.—(1) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

''POINT OF ORDER REGARDING EMERGENCIES

''SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.''.

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

''Sec. 408. Point of order regarding emergencies.''.

SEC. 14802. CONGRESSIONAL BUDGET PROCESS CHANGES.

(a) CONTENTS OF JOINT RESOLUTIONS ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) total new budget authority and total budget outlays for emergency funding requirements for natural disasters and national security emergencies to be included in a budget reserve account;''.

(b) SECTION 602 ALLOCATIONS.—(1) Section 602 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

''(f) COMMITTEE SPENDING ALLOCATIONS AND SUBALLOCATIONS FOR BUDGET RESERVE ACCOUNT.—

''(1) ALLOCATIONS.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution) of total new budget authority and outlays to the Committee on Appropriations of each House for emergency funding requirements for natural disasters and national security emergencies to be included in a budget reserve account.

''(2) SUBALLOCATIONS.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under paragraph (1) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.''.

(2) Section 602(c) of the Congressional Budget Act of 1974 is amended by inserting ''or subsection (f)(1)'' after ''subsection (a)'' and by inserting ''or subsection (f)(2)'' after ''subsection (b)''.

SEC. 14803. REPORTING.

Not later than November 30, 1996, and at annual intervals thereafter, the Director of the Office of Management and Budget shall submit a report to each House of Congress listing the amounts of money expended from the budget reserve account established under section 1 for the fiscal year ending during that calendar year for each natural disaster and national security emergency.

CHAPTER 2—BASELINE REFORM

SEC. 14851. THE BASELINE.

(a) The second sentence of section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by inserting ''but only for the purpose of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974'' after ''for inflation as specified in paragraph (5)''; and

(2) by inserting ''but only for the purpose of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974'' after ''to offset pay absorption and for pay annualization as specified in paragraph (4)''.

(b) Section 1109(a) of title 31, United States Code, is amended by adding after the first sentence the following new sentence: ''These estimates shall not include an adjustment for inflation for programs and activities subject to discretionary appropriations.''.

SEC. 14852. THE PRESIDENT'S BUDGET.

(a) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

''(5) except as provided in subsection (b) of this section, estimated expenditures and appropriations for the current year and estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years following that year;''.

(b) Section 1105(a)(6) of title 31, United States Code, is amended by inserting ''current fiscal year and the'' before ''fiscal year''.

(c) Section 1105(a)(12) of title 31, United States Code, is amended by striking ''and'' at the end of subparagraph (A), by striking the period and inserting ''; and'' at the end of subparagraph (B), and by adding at the end the following new subparagraph:

''(C) the estimated amount for the same activity (if any) in the current fiscal year.''.

(d) Section 1105(a)(18) of title 31, United States Code, is amended by inserting ''new budget authority and'' before ''budget outlays''.

(e) Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

''(30) a comparison of levels of estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year and the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction.''.

SEC. 14853. THE CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: ''The starting point for any deliberations in the Committee on the Budget of each House on the joint resolution on the budget for the next fiscal year shall be the estimated level of outlays for the current year in each function and subfunction. Any increases or decreases in the congressional budget for the next fiscal year shall be from such estimated levels.''; and

(2) striking paragraph (8) and redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively, and by inserting after paragraph (7) the following new paragraphs:

''(8) a comparison of levels for the current fiscal year with proposed spending and revenue levels for the subsequent fiscal years along with the proposed increase or decrease of spending in percentage terms for each function and subfunction; and

''(9) information, data, and comparisons indicating the manner in which and the basis on which, the committee determined each of the matters set forth in the joint resolution;''.

SEC. 14854. CONGRESSIONAL BUDGET OFFICE REPORTS TO COMMITTEES.

(a) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: ''On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report for the fiscal year commencing on October 1 of that year with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits) compared to comparable levels for the current year and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.''.

(b) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting after the first sentence the following new sentence: ''That report shall also include a table on sources of spending growth in total mandatory spending for the budget year and the ensuing 4 fiscal years, which shall include changes in outlays attributable to the following: cost-of-living adjustments; changes in the number of program recipients; increases in medical care prices, utilization and intensity of medical care; and residual factors.''.

(c) Section 308(a)(1) of the Congressional Budget Act of 1974 is amended—

(1) in subparagraph (C), by inserting '', and shall include a comparison of those levels to comparable levels for the current fiscal year'' before ''if timely submitted''; and

(2) by striking ''and'' at the end of subparagraph (C), by striking the period and inserting ''; and'' at the end of subparagraph (D), and by adding at the end the following new subparagraph:

''(E) comparing the levels in existing programs in such measure to the estimated levels for the current fiscal year.''

(d) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

''GAO REPORTS TO BUDGET COMMITTEES

(a) ''SEC. 408. On or before January 15 of each year, the Comptroller General, after consultation with appropriate committees of the House of Representatives and Senate, shall submit to the Congress a report listing all programs, projects, and activities that fall within the definition of direct spending under section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

''Sec. 408. GAO reports to budget committees.''.

CHAPTER 3—RESTRICTED USES OF CONTINUING RESOLUTIONS

SEC. 14871. RESTRICTIONS RESPECTING CONTINUING RESOLUTIONS.

(a) Rule XXI of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

''9. (a) Any item of appropriation set forth in any joint resolution continuing appropriations, or amendment thereto, shall not exceed the rate it would have been at assuming the continuation of current law.

''(b) It shall not be in order in the House to consider any joint resolution continuing appropriations, or amendment thereto, which changes existing law.''.

(b) The amendment made by subsection (a) shall only apply to joint resolutions continuing appropriations for fiscal year 1996 or any subsequent fiscal year.

Subtitle J—Technical and Conforming Amendments

SEC. 14901. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DEFINITION OF BUDGET AUTHORITY.—Paragraph (2) of section 3 of the Congressional Budget and Impoundment Control Act of 1974, the second time it appears, is amended by inserting ''in any form'' after ''promissory notes'', by inserting at the end of subparagraph (A) the following new sentence: ''Such term excludes transactions classified as means of financing.'', and by striking ''With respect to'' and all that follows through ''retirement account, any'' and inserting ''Any'', by inserting after subparagraph (B) the following:

''(C) RELATIONSHIP TO ENTITLEMENT AUTHORITY.—For purposes of titles III and IV, all references to budget authority shall be considered to include the amount of budget authority estimated to be needed to fund entitlement provisions under existing or proposed law, and all legislation increasing (or

decreasing) the level of entitlement authority under existing law shall be considered to provide (or decrease) new budget authority in that amount.'',

and by redesignating the next subparagraph accordingly.

(b) DEFINITION OF ENTITLEMENT AUTHORITY.—Paragraph (9) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''spending authority described by section 401(c)(2)(C)'' and inserting the following: '', and the term 'entitlement program' refers to, any provision of law that has the effect of requiring the Government to make net payments (including intragovernmental payments) regardless of the amount of budget authority that may be available to make those payments. Those terms shall include amounts estimated to be required under provisions of law that depend on the fulfillment of nonlegislative conditions or are indefinite as to amount or timing. Except as provided in the next sentence, if a provision of law that otherwise requires the Government to make net payments is directly or indirectly limited by any other provision of law to an amount of available budget authority, then entitlement authority does not exist. Subchapter II of chapter 13 of title 31, United States Code, and the sequestration provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not be considered provisions of law that limit entitlement authority to the amount of available budget authority.''

(c) DEFINITION OF MEANS OF FINANCING.—Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following new paragraph:

''(11) The term 'means of financing' means the financial transactions of the Government that consist of exchanges of money or monetary proxies of equal value and therefore are not counted as obligations, outlays, or revenues, such as net Federal borrowing from the public in any form, debt redemption, seignorage on coins and profits from the sale of gold, and changes in outstanding check or other monetary credits, including write-offs.''.

(d) CBO STUDIES.—Section 202(h) of the Congressional Budget Act of 1974 is amended by striking ''outlays, credit authority,'' and inserting ''outlays''.

(e) REQUIRED CONTENTS OF BUDGET RESOLUTION.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking ''planning levels'', by striking ''two'' and inserting ''four'', by striking '', budget outlays, direct loan obligations, and primary loan guarantee commitments'' both places it appears and inserting ''and outlays'', by striking paragraphs (5), (6) and (7), by striking the semicolon at the end of paragraph (4) and inserting a period, by inserting ''and'' after the semicolon at the end of paragraph (3), and by striking the last sentence.

(f) TECHNICAL CORRECTION TO SECTION 301(e).—Section 301(e) of the Congressional Budget Act of 1974 is amended by inserting ''new'' before ''budget authority'' in the second sentence.

(g) COMMITTEE ALLOCATIONS AND SUBALLOCATIONS.—Section 602(a)(1)(B) of the Congressional Budget Act of 1974 is amended by striking ''committee.'' and inserting ''committee, except that new budget authority and outlays for entitlement programs funded through annual appropriations shall be allocated and scored both to the Committee on Appropriations and to the committee that authorized such programs.''.

(h) COMMITTEE ALLOCATIONS.—Section 302 of the Congressional Budget Act of 1974 is amended to read as follows:

''COMMITTEE ALLOCATIONS

''SEC. 302. (a) REPORTS BY COMMITTEES.—As soon as practicable after a joint resolution on the budget is enacted—

''(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House—

''(A) subdivide among its subcommittees the allocation of budget outlays, new budget authority, and new credit authority allocated to it in the joint budget resolution;

''(B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

''(2) every other committee of the House and Senate to which an allocation was made in such joint budget resolution shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made—

''(A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction; and

''(B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this subsection.

''(b) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

''(1) new budget authority for a fiscal year;

''(2) new spending authority as described in section 401(c)(2) for a fiscal year; or

''(3) new credit authority for a fiscal year; within the jurisdiction of any committee which has received an appropriate allocation of such authority pursuant to section 301(a)(6) for such fiscal year, unless and until such committee makes the allocation of subdivisions required by subsection (a), in connection with the most recently enacted joint resolution on the budget for such fiscal year.

''(c) SUBSEQUENT JOINT RESOLUTIONS.—In the case of a joint resolution on the budget referred to in section 304, the subdivisions under subsection (a) shall be required only to the extent necessary to take into account revisions made in the most recently enacted joint resolution on the budget.

''(d) ALTERATION OF ALLOCATIONS.—At any time after a committee reports the subdivision required to be made under subsection (a), such committee may report to its House an alteration of such subdivision. Any alteration of such subdivision must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.

''(e) LEGISLATION SUBJECT TO POINT OF ORDER.—After enactment of a joint resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, resolution, or amendment providing new budget authority for such fiscal year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year, or any conference report on any such bill or resolution, if—

''(1) the enactment of such bill or resolution as reported;

''(2) the adoption and enactment of such amendment; or

''(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate allocation made pursuant to section 301(a)(6) or subdivision made under subsection (a) of this section for such fiscal year of new discretionary budget authority, new entitlement authority, or new credit authority, to be exceeded.

''(f) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays and new credit authority for a fiscal year, shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.''.

(i) COST ESTIMATES AND SCOREKEEPING REPORTS.—Section 308 of the Congressional Budget Act of 1974 is amended—

(1) in its title, by striking '', NEW SPENDING AUTHORITY, OR NEW CREDIT AUTHORITY,'';

(2) by striking '', new spending authority described in section 401(c)(2), or new credit authority,'' the 3 times it appears;

(3) in subsection (a), by striking ''in the reports submitted'', by inserting ''302(a) or'' before ''302(b)'', in paragraph (1)(B) by striking ''spending authority'' and everything that follows through ''401(c)(2) which is'' and inserting ''budget authority'' and by striking ''annual appropriations'' and inserting ''annual discretionary appropriations'', and in paragraph (1)(C) by striking ''such budget authority'' and all that follows through ''loan guarantee commitments'' and inserting ''new budget authority, outlays, or revenues''; and

(4) in subsection (c), by adding ''and'' at the end of paragraph (1), by striking ''period;'' and inserting ''period.'' at the end of paragraph (2), and by striking paragraphs (3), (4), and (5).

(j) TECHNICAL CORRECTION TO SECTION 312.—Section 312 of the Congressional Budget Act of 1974 is amended by inserting ''(a)'' after ''312.''.

(k) CONSIDERATION OF LEGISLATION THAT HAS NOT BEEN REPORTED.—Section 312 of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

''(c) CONSIDERATION OF LEGISLATION THAT HAS NOT BEEN REPORTED.—In the House of Representatives, any point of order under title III or IV that would lie against consideration of a bill or joint resolution as reported by a committee shall also lie against a motion to consider legislation respecting which no report has been filed.''

(l) CONFORMING AMENDMENTS TO SECTION 313.—Section 313 of the Congressional Budget Act of 1974 is amended by striking ''or section 258C'' and everything that follows through ''Deficit Control Act of 1985'', by striking ''; and (F)'' and everything that follows through ''310(g)'', by redesignating the second subsection (c) and subsection (d) as subsections (d) and (e), respectively, and by striking ''or (b)(1)(F),''.

(m) BORROWING AND CONTRACT AUTHORITY.—Section 401 of the Congressional Budget Act of 1974 is amended

(1) in subsection (a), by striking ''new spending authority described in subsection (c)(2)(A) or (B)'' both times it appears and inserting ''borrowing authority or contract authority'';

(2) by repealing subsections (b) and (c) and by redesignating subsection (d) as subsection (b); and

(3) in subsection (b) (as redesignated), by striking ''Subsections (a) and (b)'' and inserting ''Subsection (a)'', by inserting ''non-interest'' before ''receipts'' in paragraph (1)(B), by repealing paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(n) CREDIT AUTHORITY.—Section 402(a) of the Congressional Budget Act of 1974 is amended by inserting before the period the following: '', except that this provision shall not apply with respect to programs that, as of August 15, 1992, provide credit authority as an entitlement''.

SEC. 14902. TECHNICAL AND CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.

(a) MISCELLANEOUS CONFORMING AMENDMENT.—Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking ''or section 602 (in the case of fiscal years 1991 through 1995)''.

(b) REPEALER.—Rule XLIX of the Rules of the House of Representatives is repealed.

SEC. 14903. PRESIDENT'S BUDGET.

(a) DEFINITIONS.—Section 1101 of title 31, United States Code, is amended by adding at the end the following:

''(3) 'Expenditures' has the same meaning as the term 'outlays' in the Balanced Budget and Emergency Deficit Control Act of 1985.

''(4) All other terms used herein or in the documents prepared hereunder shall have the meanings set forth in the Balanced Budget and Emergency Deficit Control Act of 1985.''.

(b) BYRD AMENDMENT.—Section 1103 of title 31, United States Code, is amended by striking ''commitment that budget'' and inserting ''commitment that, starting with fiscal year 2002,''.

(c) PRESIDENT'S BUDGET SUBMISSION.—Section 1105(a) of title 31, United States Code, is amended—

(1) in the first sentence by striking ''On or after the first Monday in January but not later than the first Monday in February of each year'' and inserting ''On or before the first Monday in February or the 21st calendar day beginning after the date the Board of Estimates issues a report to the President under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985'';

(2) in paragraph (15) by striking ''section 301(a)(1)–(5)'' and inserting ''section 301(a)(1)–(4);

(3) in paragraph (16) by striking ''section 3(a)(3)'' and inserting ''section 3(3)''; and

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

''(32) an analysis of the financial condition of Government-sponsored enterprises and the financial exposure of the Government, if any, posed by them.''.

(d) USE OF OFFICIAL ESTIMATES.—Section 1105(f) of title 31, United States Code, is amended by inserting at the end the following new sentence: ''That budget shall be consistent with the discretionary funding limit and the direct spending and receipts deficit reduction requirement for that year chosen by the Board of Estimates and shall be based upon the major estimating assumptions chosen by that Board.''.

Subtitle K—Truth in Legislating

SEC. 14951. IDENTITY, SPONSOR, AND COST OF CERTAIN PROVISIONS REQUIRED TO BE REPORTED.

(a) IDENTITY, SPONSOR, AND COST.—Clause 4 of rule X of the Rules of the House of Representatives is amended by adding at the end thereof the following:

''(j)(1) Except as provided by subparagraph (2), the report or joint explanatory statement accompanying each bill or joint resolution of a public character reported by a committee or committee of conference shall contain, in plain and understandable language—

''(A) an identification of each provision (if any) of the bill or joint resolution which benefits only 10 or fewer beneficiaries in any one of the following categories: persons, corporations, partnerships, institutions, organizations, transactions, events, items of property, projects, civil subdivisions within one or more States, or issuances of bonds;

''(B) the name of each beneficiary of such provision;

''(C) the name of any Member or Members who sponsored the inclusion of each such provision and an indication of each such provision requested by any agency, instrumentality, or officer of the United States; and

''(D) an estimate by the Congressional Budget Office or the Joint Committee on Taxation, whichever is appropriate, of the costs which would be incurred in carrying out such provision or any loss in revenues resulting from such provision for the fiscal year for which costs or loss in revenues, as the case may be, first occurs and each of the next 5 fiscal years.

''(2)(A) Subparagraph (1) shall not apply with respect to any provision of a bill or joint resolution or of a conference report on a bill or joint resolution if the beneficiary of such provision is the United States or any agency or instrumentality thereof.

''(B) Subparagraph (1)(D) shall not apply with respect to any provision of a bill or joint resolution or of a conference report on a bill or joint resolution if the costs which would be incurred in carrying out such provision or any loss in revenues resulting from such provision are identified clearly in the report or joint explanatory statement accompanying such bill or joint resolution.

''(3) It shall not be in order to consider any such bill or joint resolution in the House if the report or joint explanatory statement of the committee or committee of conference which reported that bill or joint resolution does not comply with subparagraph (1). The requirements of subparagraph (1) may be waived only upon a separate vote directed solely to that subject.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bills and joint resolutions reported by a committee of the House of Representatives after the date of enactment of this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from Utah [Mr. ORTON] and a Member opposed will be recognized for 30 minutes each.

Mr. KASICH. Mr. Chairman, I rise in aggressive opposition to the gentleman's proposal.

The CHAIRMAN. The gentleman from Ohio [Mr. KASICH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CONDIT], the chairman of our coalition.

Mr. CONDIT. Mr. Chairman, first of all, I would like to thank the coalition members and the staff for all the hard work they have done in putting this budget together. We have worked over the last several months with limited number of staff, and we believe we put a good budget together. The budget obviously is a product of hard work. It is a sound and credible and reasonable alternative. There are some technical and major public policy differences.

But we come to the floor today not armed with any charts. We come today armed with the facts. And we would like to take the opportunity today to have a thoughtful and respectful discussion about our budget and about how it differs from the Republican budget.

We have a great deal of respect for the chairman of the Committee on the Budget on the Republican side and we do not question his motives on his budget. But we do think there is a difference, and we would like very much to have the opportunity to explain that and have a kind and reasonable discussion.

We want to make a commitment. At the end of this process, the coalition members are committed to get this country's financial house in order. We will work with anyone in this House at the end of this process to see that that gets done.

Mr. KASICH. Mr. Chairman, I yield 4 minutes to my friend, the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Chairman, I rise in opposition to the substitute and appreciate the opportunity to address the House.

Before I do, I just want to commend my dear friend and colleague from the State of Ohio, who I think is a gentleman, a true revolutionary making history today for the American people. To my friend, the gentleman from Ohio [Mr. KASICH] I tip my hat again.

Mr. Chairman, today is an extraordinary day for the American people. As Speaker GINGRICH said the other day, the changes we are making for the American people in today's reconciliation bill approach the level of sweeping change advanced by President Roosevelt's New Deal. Without question, our dramatic reshaping of the Federal Government certainly surpasses the magnitude of change advanced by Lyndon Johnson's big government Great Society programs.

Without doubt, history will judge our efforts today as the start of a new era in American life and in American politics.

Unfortunately, not all Members of this body are willing to stake a dramatic new course for America and its people. The liberal Democrat leadership in this body still clings to the failed policies of the past. They still believe that America can continue deficit spending with impunity. They still believe in the Great Society notion that the Federal Government is the leading institution in American life.

A few Members of the Democrat Party in this House have rejected the notion of their liberal leaders and at least made an attempt to present an alternative reconciliation plan that balances the budget in 7 years.

Unfortunately, Mr. Chairman, this Democrat alternative is serious flawed.

As we set out to dramatically reshape the Federal Government, a government that was built with the hard work and sweat of American taxpayers, it is only fair that we provide the American people with a dividend in the form of tax relief for working families.

The Democrat alternative ignores the very people whose hard earned dollars built the bloated Government we are now downsizing by refusing to provide them with tax relief.

Mr. Chairman, in my own region of western New York and the Finger Lakes, nearly 430,000 children will be eligible for the $500 tax credit, worth nearly $220 million to their families—not to government.

Nearly 15,000 senior citizen households will see the 1993 assault on their Social Security earnings reversed.

For the 200 or so couples in my region who were married last week, they will see a slow reversal of the unfair marriage penalty contained in the Tax Code.

And for the 120 or so senior citizens in my community who this week became eligible for Medicare, our reconciliation plan protects their access to health care until the year 2010.

Mr. Chairman, the Democrat alternative accomplishes none of these goals.

Our reconciliation plan is the right answer to get America on a new course. Our reconciliation plan says to the taxpayers back home; we work for you. You are our bosses. You are paying to keep us here and you deserve a dividend as your Government is restructured.

Mr. Chairman, I urge my colleagues to support the Republican plan and reject the Democrat alternative.

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Mr. ORTON. Mr. Chairman, I yield myself 5 minutes to explain our bill.

Mr. Chairman, my colleagues, the coalition budget also reaches balance in the year 2002, but does so by reducing the deficit by more than $30 billion more than the leadership plan before us.

Let me just divert for a minute and tell my colleagues a little story. Most of my colleagues have seen me on the floor with my son, Will. I have learned something from my son over the last several months. That is, when I feed him his vanilla custard first, he does not want to eat the green beans. History proves that our country is the same way. We want desert first.

Mr. Chairman, in the 1980 changes that we went through we made the tax cuts, but we never got around to making the difficult spending cuts. The coalition budget puts spending cuts ahead of tax cuts, in contrast to the leadership plan which borrows money to pay for tax cuts and cuts deeply into critical priority spending areas like education and health care.

The coalition budget proves that it is possible to balance the budget and also restore solvency to the Medicare trust fund to avoid devastating cuts to Medicare, to avoid raising premiums for low- and middle-income seniors. In fact, our plan would have seniors, the average senior, paying $1,000 less per person over the next 7 years than the plan before us. Mr. Chairman, it also avoids cuts which threaten the solvency of rural and inner-city hospitals.

The coalition budget proves that it is possible to balance the budget at the same time avoiding huge Medicaid cuts contained in the leadership plan that will threaten nursing home care for seniors. Ours retains the nursing home standards in current law, threatened health care for millions of poor Americans, and provide a huge unfunded mandate to the States or, in the alternative, raise premiums on poverty-level seniors by up to $5,000 apiece over the next 7 years. It also retains the spousal exemption so that seniors do not have to become impoverished when one spouse goes into the hospital.

The coalition budget also proves that it is possible to balance the budget and at the same time reform welfare in a way that provides tough work requirements, provides for child care, child enforcement, health care, and training skills to allow people to move off of welfare, provides protection for children, avoids new individual mandates on the States which merely implement a new social agenda. It avoids crippling cuts in discretionary spending to protect critical areas like education, health research, job training, economic development, and infrastructure. It avoids severe cuts to agriculture programs which could threaten the existence of family farms and rural communities.

It avoids a tax increase, as Mr. Kemp put it, on working people, 14 million working Americans of low and moderate income, as contained in the leadership plan on the earned income tax credit changes. It avoids unnecessary levels of cuts to student loans, single and multifamily housing programs, Federal worker benefits, and environmental areas. It does not politicize the debt limit and risk financial solvency of the Treasury.

Ultimately, Mr. Chairman, the coalition plan proves that it is possible to balance the budget over 7 years using honest numbers, shared sacrifices, sound priorities, and common sense, without blue smoke and mirrors as Senator DOMENICI called the $36 billion plug figure in the leadership Medicare plan. Our budget reflects where the majority of Americans would like to see our ideological debate resolved.

Our budget has received endorsements from various and interesting groups from all sides of the political spectrum including the Concord Coalition, the Washington Post, the New York Times, the Philadelphia Inquirer, and the Minneapolis Star Bulletin.

The coalition plan places deficit reduction over ideology, puts spending cuts before tax cuts, and presents a complete and credible package without blue smoke and mirrors. Our budget reflects Democratic priorities, but, more important, it reflects America's priorities.

Mr. Chairman, I urge adoption of the coalition budget and am happy to announce that in the other body Senators SIMON, ROBB, KERREY, and CONRAD are going to be introducing the same bill as an amendment on the floor of the Senate.

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

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from North Carolina [Mr. BURR].

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

Mr. BURR. Mr. Chairman, I also come, as the gentleman who stood up earlier on the Democrat side of the aisle, with no charts, with no maps, even with no buttons, even though I have worn one today, because in fact today the strategy has been clear. The strategy by the minority in this House is that, if we say things that are untrue enough, people will believe them. If we say to seniors that trying to fix Medicare will hurt them, they might believe that. If, in fact, we say to children do not worry about the debt, we are going to solve it at some point, that they might believe it. If in fact we say to the poor enough do not worry about federally driven programs, the States cannot do it, that they might believe it.

As my colleagues know, the fact is that I have had a button on all day that said if not now, when? Well, if not now, when will we stand up for seniors and secure the future of Medicare for them and for future generations? If not now, when will we stand up for children in this country and for once say we are going to begin to do away with the debt problem that we have put on their shoulders? If not now, when? If not now, when will we say to those poor individuals in this country who need Federal assistance we are going to ask their neighbors to design programs because they know better than bureaucrats what they need? If not now, when are we going to do what the American people want us to do, and turn down this substitute, and vote for the reconciliation package that will truly balance our budget in 7 years and save the programs of this Government?

Mr. Chairman, I hope and expect this legislation will foster the development of provider networks, including specialty provider networks because of my interest in assuring seniors that they will have choices relating to behavioral health care, rehabilitation care and other specialty services.

The private sector has engaged in direct contracting with specialty networks in order to lower costs and improve access to quality treatment as well as expand choice for consumers. The Medicare Program should also explore the utilization of these specialty networks for the same reasons.

I believe the Health Care Finance Administration has adequate demonstration authority under current law to test the feasibility and desirability of permitting specialty provider sponsored networks to serve the new Medicare market. A demonstration project would serve to determine whether seniors have access to the most cost-effective quality treatments for specialized services.

Mr. ORTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Minnesota [Mr. PETERSON], who is the chairman for policy of the coalition.

Mr. PETERSON of Minnesota. Mr. Chairman, first of all I want to commend all the chairmen of the task forces of the coalition and Members that served on those task forces for their hard work. It has been a lot of effort put in this budget, and this coalition budget is a honest plan to balance the budget, as the gentleman from

Utah said, in 7 years through real reforms in Government programs. We make tough choices to balance the budget first instead of borrowing money to pay for tax cuts is being done in the other plan. Because we do not have tax cuts up front, we add $30 billion less to the national debt over the next 7 years than the Republican plan and put the deficit on a much more reasonable guidepath toward a balanced budget. The deficit actually increases in the second year under the Kasich substitute because of that tax increase. The coalition plan does not include this deficit bump in the second year, and in fact reduces the deficit by $61 billion in the second year. The coalition plan does not include any of the unspecified Medicare savings or budget gimmicks such as pension reversion, merger of the bank insurance fund, back-loaded IRA's, and other tax changes that make the deficit appear smaller in the first year but actually cost the taxpayers money over the long term. If we remove these gimmicks from the plan, the deficit will be $25 billion higher than in the first 2 years under the Republican plan. The coalition budget backs up the deficit reduction in this bill with tough enforcement mechanisms that make sure we meet the deficit targets. The coalition budget includes budget process reforms such as line-item veto and the lockbox to allow Congress and the President to cut spending further.

In addition, Mr. Chairman, we make a change in here that most anybody looking at this thinks we need to make. The coalition budget includes a 0.5-percent reduction in the CPI. In the Republican plan they pick up the real Bureau of Labor Statistics 0.2 change in 1999. We do what a lot of people say we should do. Five prominent economists chaired by Michael Boskin said that the CPI is overstated by between 0.7 and 2 percent. Alan Greenspan has said that it has been overstated by maybe 1 percent. The CBO says it is anywhere from 0.2 to 0.8 percent. So we picked something that we think makes some sense, and, if we are going to get at this budget problem, we have got to get something out of every area. This CPI is a fair way to spread the burden of balancing the budget evenly by treating all programs equally including tax indexing. There is lots of Republicans, including the Republican majority leader, that support this, and we also have a flat-rate COLA which we think makes a lot of sense for lower-income Americans.

We urge our colleagues' support.

Mr. KASICH. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, last week President Clinton said, ''I increased taxes too much and cut spending too little.'' We all saw it here, and, as my colleagues know, that is really what this debate is all about. Will we continue 40 years of blindly throwing taxpayer money at our problems, or will for one time reverse that failed policy? Today we must really ask ourselves what has the tax-and-spend policy of these past 30 or 40 years brought us?

We discourage and we penalize people for working. We have destroyed family structures. Our Federal programs are like sieves. They are fraught with waste, fraud, and abuse. In my district nearly 50 percent of our community college entrants need remedial education. Our children must look forward to bleak futures, part-time jobs, low-paying jobs, or service jobs. We penalize our seniors for working. We export our jobs. We discourage savings. We penalize investment, and, to top it all off, the wonderful mess we have created for our people makes them afraid to go out and walk on our streets at night.

Today we have with the budget before us possibly the last opportunity to change all that. I urge the adoption of the Republican budget and urge the defeat of this fig-leaf substitute.

Mr. ORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

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Mr. PAYNE of Virginia. Mr. Chairman, I thank the gentleman for yielding time to me, and I thank all my colleagues in the coalition for their hard work on this substitute.

Mr. Chairman, there are many good reasons why this substitute is better than the Republican bill. But let me just tell you why it's better for all Americans who are, or who will be, served by Medicare.

First, the coalition budget saves Medicare by restoring its hospital trust fund. But unlike the Republican budget, our plan doesn't ask our least vulnerable seniors to shoulder an undue burden. We maintain basic part B premiums for seniors at 25 percent while we ask seniors who earn more than $50,000 to pay more. Overall, our budget provides $100 billion more for Medicare over 7 years than the Republican plan.

Second, the coalition's reforms in Medicare won't destroy health care in rural and other medically underserved areas. Our plan avoids deep, harmful cuts in payments to these vulnerable hospitals. And we incorporate vital reforms recommended by the bipartisan Rural Health Care Coalition.

Third, the coalition's Medicare reforms expand coverage for preventive medicine.

Fourth, the coalition's budget fights Medicare fraud and abuse better.

And fifth, our Medicare reforms aren't based on gimmicks such as the look-back provision. The reforms made by the coalition are clear and there for the American people to see and understand.

Mr. Chairman, the Republicans have been telling us for months now that we must cut $270 billion from Medicare to save the program from bankruptcy and to balance the budget.

Our coalition budget proves them wrong on both counts. Our plan ensures the solvency of Medicare, balances the budget, and protects our most vulnerable seniors, while spending $100 billion more than the Republican plan on Medicare for the next 7 years.

The New York Times says the coalition's plan shows ''the budget can be balanced by 2002 without pummeling the poor or Medicare.''

The Washington Post says our budget is ''easily the best horse in the race.''

These and many other newspapers across the country, as well as the Concord Coalition, are endorsing the coalition's budget.

I urge my colleagues to vote for this substitute.

Mr. KASICH. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from California [Mr. KIM].

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

Mr. KIM. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we all agree that we cannot continue spending and spending more than we take in. We all know we have to balance the budget. We all agree with that. In private, if you spend more than you earn, you have to file a bankruptcy. My kid can understand this.

The debate is not whether we should or should not. I think the debate is how to do it. Obviously, we have two kinds of solutions. One is a real solution, the Republican solution, which guarantees that the budget will be balanced at the end of 7 years. The other plan is gentler, a band-aid plan, a feel-good plan.

Let me talk about this. Right now our national deficit is sky high. The interest payment alone last year was about the same as our national defense budget. This is a tough time. We need a tough solution, not a band-aid feel-good solution. As a matter of fact, the feel-good solution was rejected yesterday by the other body by 96 to 3. Only two Democrats supported this feel-good plan yesterday in the other body. Forty-four Democrats rejected this band-aid, feel-good plan.

Obviously, the plan we adopt must be the Republican plan. I do not see any other plan except this. This is a tough solution, a realistic solution. We guarantee we will balance the budget at the end of 7 years, which our budget does.

Mr. ORTON. Mr. Chairman, I yield myself 10 seconds to correct the gentleman.

The gentleman reflected that this alternative had been voted on in the Senate yesterday and lost 96 to 3. That is incorrect. This alternative has not been voted on in the Senate. Several Senators indicated their intention to raise it today. That is an incorrect statement.

Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. HALL].

(Mr. HALL of Texas asked and was given permission to revise and extend his remarks.)

Mr. HALL of Texas. Mr. Chairman, I rise in strong support of the coalition's

budget reconciliation plan. It is a fair and responsible proposal that achieves a balanced budget and yet is not unkind in doing so. These are two important points, Mr. Chairman. It is important for our Nation's future that we ensure economic security through a balanced budget, and it is equally important that we protect all of our citizens in the process. It is also vital that we protect the most vulnerable in our Nation—our children, our seniors, our sick, our poor.

As chairman of the Coalition's Health Care Task Force, I would like to address the coalition's plan to reform Medicare and Medicaid. We recognize that reforms are needed to protect the future of these programs. We recognize that we need to slow the rate of growth. We believe that our plan achieves these goals less painfully than the majority's proposal.

The coalition budget achieves a balanced budget while protecting Medicare. It does this by slowing the rate of growth and by giving seniors more choices of health care plans—but it does not force them to change. The reforms contained in our budget have far less impact on Medicare than those in the leadership's budget—by about $100 billion less. Our Medicare plan increases coverage for preventive care and maintains full home health care coverage. It reduces providers' Medicare reimbursements far less than the leadership budget does. Our plan includes fraud and abuse provisions, medical malpractice reform, and anti-trust relief. It establishes a commission to report every 3 years on the effectiveness of our plan. Most importantly, Mr. Chairman, it maintains part B premiums at 25 percent for low and middle-income seniors and avoids cuts to rural and inner city hospitals. The coalition's Medicare provisions are less painful than those in the leadership's plan—and yet will keep us on target to balance the budget.

Those who need our help the most—those covered under Medicaid—also are protected under the coalition's plan. Our budget maintains Medicaid payment of part B premimus, deductibles, and co-payments for low-income seniors. It continues nursing home standards and protects spouses from exhausting their resources to pay for nursing home costs. These are safety nets that are critical to the health and economic well-being of our citizens, Mr. Chairman, and they must be preserved.

Mr. Chairman, we must honor our contract with the 37 million seniors being served by Medicare. We have an obligation to protect their current quality of care. At the same time, part of our contract with them is to ensure the future solvency of the program. The coalition budget accomplishes both of these. Although I don't agree with all aspects of either the leadership bill or the coalition budget, I believe the coalition budget is the most responsible proposal before the House today. I, for example, favor some tax relief, such as the $500 child tax credit and capital gains relief, that will spawn income and not cause outgo, but the argument is strong that we should not cut taxes until we balance the budget. I believe there will be some tax cuts in the final bill.

I believe that we are within a stone's throw of where the Republicans, Democrats, and the President will finally come to. We have an extraordinary opportunity to achieve a balanced budget. This is a goal that I have supported throughout my years in Congress and one that is long overdue. But we must be sure that we are stepping in the right direction, that we are resolute but kind in our efforts to protect Medicare and also balance our budget. Mr. Chairman, I believe the coalition budget is a right step, and I urge my colleagues' support.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Chairman, in November the American people elected a new Congress to come to Washington. They elected us on a number of principles, but the one that I campaigned on was cutting taxes, cutting bureaucracy, and cutting spending. The Democrat alternative falls short on cutting taxes. One in particular is the capital gains tax cut.

A capital gains tax cut is good for the small business person, it is good for the little guy, but we have heard a lot about the fact that it only helps the rich. That is not quite true. If we look at this chart, we will see that in last year's returns, capital gains was filed by people making less than $50,000, 58 percent of the time. As a matter of fact, 86 percent of all the returns filing a capital gain were from people making less than $100,000.

Capital gains will spur the economy. We know it. It is proven. It has happened before. It is going to help our seniors, it is going to help our children. It is good for the working men and women of this country. I believe that the Democrat alternative falls short in not returning people's money back to its rightful owner. That is why I support the Kasich substitute, the Republican plan, and why I think we should vote no on the Democrat alternative and vote yes on the Republican plan to balance this budget for the future of this country.

Mr. ORTON. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Arkansas [Mrs. LINCOLN].

(Mrs. LINCOLN asked and was given permission to revise and extend her remarks.)

Mrs. LINCOLN. Mr. Chairman, both of these plans balance the budget. I think that is a lot of what the American people are asking us to do. The way they ask us to do it is in a fair and reasonable way.

I think in a recent article in the Philadelphia Enquirer our group of 23 conservative Democrats, the coalition, are called a group of renegades. We are basically called that because we are the few people here in Washington that are willing to do exactly what the American people want, and that is to put people above politics, especially the partisan politics that are played here in Washington.

As I said, both of these plans balance the budget. Many of us from the coalition agree with the former speaker, that there is a need for tax reform and tax relief. However, what the American people want us to do is to cut spending first, and that is what we do. In specific areas of Medicaid, we are much more reasonable and fair than the Republican alternative. We plan to treat Medicaid more fairly than the Republican budget. The Coalition cuts $100 billion less than the Republican plan, while still balancing the budget by 2002.

The coalition keeps nursing home quality care standards that are currently in the Federal law. We do not impose liens on family farms or homes, and spouses or children of nursing home residents do not have to spend all of their assets to pay for care. The coalition imposes a per capita limit on Federal spending, instead of limiting growth per State. The coalition will allow Medicaid to continue to guarantee to pay for low-income Medicare beneficiaries.

In my State of Arkansas, roughly 70 to 80 percent of the Medicare recipients of our State have their premiums paid by Medicaid, but most importantly, the coalition will continue to guarantee health care coverage for the three categories of Medicaid beneficiaries: Low-income mothers and children, elderly people needing long-term care, and the disabled population.

I urge my colleagues to take the reasonable approach to balancing the budget.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from North Carolina [Mrs. MYRICK], a former mayor.

Mrs. MYRICK. Mr. Chairman, our colleague, the gentleman from Oklahoma, Mr. TOM COBURN, became the proud grandfather of a little baby girl, Sarah. Today's vote on this balanced Budget Reconciliation Act is going to be an historic vote that is going to make a big difference in Sarah's life. It restores fiscal sanity to our Government. As a mother of five and a grandmother of six, I have a moral obligation to balance this budget. I want my kids to have the same opportunity to succeed that I have enjoyed in this generation. We are looking today at a national debt of $4.8 trillion.

What this vote on the balanced budget means is very simply that Sarah and my new grandchild, No. 7, who is going to be born in December, will not have to pay $187,000 just to cover the interest on the debt alone through their lifetimes. We cannot go on literally mortgaging our children and our

grandchildren's future, and saddling them with this huge mountain of debt.

When we pass this bill today, it is going to be the first step in balancing a budget that has not been balanced in 26 years. That is historic. We owe it to our children and we owe it to our grandchildren, and their children, to pass a balanced budget. This bill is the first step in the right direction.

Mr. ORTON. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. HARMAN].

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

Ms. HARMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, my family and I would personally benefit from the tax cuts contained in H.R. 2491, but they are wrong. I strongly support the coalition substitute, which cuts spending first and defers tax relief until the budget is balanced. As the mother of the bipartisan lockbox, deficit lockbox amendment, let me point out that the coalition substitute is the only, repeat, the only vote we can take today to include a formal deficit lockbox mechanism as part of our 7-year balanced budget program. Only the coalition substitute makes a cut a cut, this year and in the out years.

Deficit hawks, listen up. This is the defining vote for those serious about process reform, reform that will genuinely help to reduce the deficit. Deficit hawks, Republican freshmen, this is the vote you need to make. Support the coalition substitute and its bipartisan deficit reduction lockbox.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the very distinguished gentleman from Wisconsin [Mr. GUNDERSON], the reformer of agriculture in the House.

Mr. GUNDERSON. Mr. Chairman, last June, I joined with my colleagues in the House in voting to balance the Federal budget over 7 years. This is an historic step and, if successful, would represent the first balanced budget in 33 years.

I voted in favor of a balanced budget because it is time that Congress finally take the necessary action to slow Federal spending. Failure to correct the course now will land us in dire straits over time. In fact, if we decide to continue spending at the same levels we had in fiscal year 1995, the annual deficit—the amount by which spending exceed receipts each year—would increase from $210 billion in fiscal year 1996 to $349 billion in fiscal year 2002. That increase represents a $1.165 trillion addition to the national debt. Without any additional changes, the interest on the national debt will increase from $235 billion in fiscal year 1996 to $334 billion in 2002.

This again becomes clear if you just look at how much more we spend on interest on the national debt than we spend on our education and training programs. In fiscal year 1995, we spent 66 times more on interest on the national debt than we do on the Head Start Program. We spent 32 times more on interest on the national debt than we do on the Title I Program which benefits disadvantaged grade-school kids. We spent 149 times more on interest on the national debt than we did on all elementary and secondary school improvement programs. We spent 158 times more on interest on the national debt than we did on Federal aid to vocational education, 180 times more than on the JOBS program to get people off welfare, and 212 times more than on Job Corps. Clearly this is a distorted sense of priorities because interest on the debt is only going to grow if we do not take action now.

Today, entitlement spending makes up 64 percent of the entire Federal budget, and spending on discretionary programs, such as defense, education and job training, makes up 36 percent. Without significant shifts in priorities, by 2012 entitlement spending will consume the entire budget. That means unless we institute a significant increase in the income tax, zero Federal dollars spent for our national defense, for any education programs, other than student loans, and countless other Federal programs.

It is vital that we take steps to slow the growth in Federal spending because of the dramatic growth in entitlement programs. Although I continue to support the existence of many of our entitlement programs—especially Social Security, Medicare and student loans—we risk them consuming the entire budget.

THE OMNIBUS BUDGET RECONCILIATION ACT OF 1995

The budget that we passed in June was only a blueprint for action on congressional spending. Today, through the Omnibus Budget Reconciliation Act of 1995, we are making tough choices to slow the rate of Federal spending on entitlement programs.

Slowing the rate of growth in Federal entitlement programs is not a cut. Instead, we are slowing the rate of increase in spending. If you look at the big picture this becomes clear. Over the last 7 years, between 1989 and 1995 as a nation we spent $9.5 trillion. By taking the requisite steps to balance the budget over 7 years, we will still spend $11.2 trillion. That's $2.2 trillion more than in the previous 7 years. Clearly, this package makes tough choices, but spending still increases.

Let us take a look at three of the components of the budget reconciliation package that are most important to the third district. The changes in the Student Loan Program, the deregulation of the dairy industry and pro-growth tax cuts. Earlier, I expressed my support for another major component, the Medicare Preservation Act.

STUDENT LOAN REFORM

One of the tougher jobs during the budget process was the task given to the Economic and Educational Opportunities Committee of which I am a member. To find $10.1 billion in savings over 7 years in the Student Loan Program. That is a lot of money. But if you look at the fact that we will spend 242 times more this year on interest on the national debt than on higher education programs, you will realize that this is absolutely necessary. In the end, the committee was successful in crafting a student-friendly package while getting our fiscal house in order.

The package crafted by the committee would eliminate the President's Direct Loan Program. If allowed to expand, the Direct Loan Program would transform the Education Department into a bank and would disregard the long-term impact on the Federal budget. This year, the Congressional Budget Office and the Congressional Research Service have estimated that the Student Loan Program would cost $1.5 billion over 7 years. The program would require that the Education Department either hire or contract with hundreds of loan processors—duplicating what the private sector has already perfected.

The student loan reform package passed by the committee would preserve student aid for all students, despite eliminating the direct loan program. Any student who wants financial aid will be able to receive it. Students will continue to have access to Stafford and PLUS loan dollars. The annual student loan volume is projected to increase 47 percent over the next 7 years, from $24.5 billion in 1995 to $36 billion in 2002. The annual student loan amount would increase from $2,340 to $4,300 over the 7 years.

We have also succeeded in minimizing costs to students, by requiring the financial industry to shoulder its fair share—$4.8 billion. Students will not accrue or be asked to pay interest while they are still in school. In addition, they will maintain the 6-month-grace period before they are required to start repaying their loans. The only difference is that interest will begin accruing the month after graduation. This will cost graduates on average between $6 and $9 per month during the repayment period.

DAIRY POLICY FOR WORLD MARKET—THE DAIRY TITLE OF FREEDOM TO FARM

The 1995 farm bill marks a key change in farm commodity pricing, and—especially important to western Wisconsin—a deregulation of the dairy industry. The ''Freedom to Farm Act'' put forth by House Agriculture Committee Chairman PAT ROBERTS, would save $13.4 billion over the next 7 years.

The dairy title of the Freedom to Farm Act, which I crafted as chairman of the Dairy and Livestock Subcommittee of the House Agriculture Committee, would deregulate the market in dairy products, leveling the playing field and freeing western Wisconsin farmers from the outdated and market-suppressing milk marketing order system. The change will enable U.S. dairy producers to become and remain players in the world market.

The act would continue market transition payments over the next 7 years, and would fully fund the Dairy Export Incentive Program. In addition, the act would authorize the Secretary of Agriculture to help the industry from export trading companies and continue existing producer and processor promotion programs.

TAX CHANGES: PRO-GROWTH, PRIVATE-SECTOR INCENTIVES

Reducing the amount of Federal Government growth also requires that we return control of money which we have traditionally sent to Washington back to the taxpayers. Although I believe that we must be very careful when enacting tax cuts at the same time we are balancing the budget, I have consistently supported pro-growth tax policies. The reconciliation bill before us today will help grow the economy through market incentives.

The reconciliation bill would cut individual capital gains taxes by 50 percent and corporate capital gains rates by 25 percent. These cuts will spur investment to enable the United States to maintain its competitive edge in the world economy. In addition, the bill would create new, expanded savings accounts, like individual retirement accounts, that would allow individuals to withdraw savings tax-free for major investments, such as for the

purchase of a new house or for a child's college or vocational education. But the bill also closes $27 billion in corporate tax loopholes.

In sum, it is time for us to act to protect our future, to ensure that we have the option of investing in important programs in which there should be a Federal role, such as education and training. The choices that we have made are not easy, and this bill is not perfect by any means. But it represents an important start toward real fiscal responsibility. I wholeheartedly agree with that goal. By eliminating the deficit, and gradually reducing the debt, we will increase the economy's capacity for growth and ensure that our children have a chance at a prosperous future.

Mr. Chairman, I appreciate those comments, but I would like to engage the chairman of the Subcommittee on Health and the Environment of the Committee on Commerce in a brief colloquy.

If I understand the current law, Medicaid eligibility for a person who is disabled is based on whether the Social Security Administration has recognized them to be disabled. Social Security has improved the eligibility determination process to help ensure that disabled people get recognized as disabled and therefore qualify for Medicaid as soon as possible. This is especially important for people who have disabilities that are life-threatening and are at risk of dying before the Government finds them to be disabled.

My question to the chairman of the committee is, Is it the committee's expectation that a State, in establishing its Medigrant, will expedite determinations of eligibility for people with life-threatening conditions?

Mr. BILIRAKIS. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Florida.

Mr. BILIRAKIS. Very clearly, Mr. Chairman, we would expect the States to take such steps to ensure that such people receive expedited determinations of eligibility, and would be very disappointed if they did not take these steps.

Mr. GUNDERSON. Mr. Chairman, I appreciate the reassurance of the gentleman, and look forward to making sure there is no doubt about this after it comes out of conference.

Mr. ORTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I rise in strong support of the coalition budget. It is clearly the best plan before us. It balances the budget within 7 years, and it provides for less borrowing and less debt than the Republican plan. It is not perfect. I disagree with some of the provisions in there. I would like to see a little more time in understanding the COLA changes. I would have had less Medicare cuts. However, the key difference between the substitute and the Republican bill is the tax provisions. There are no tax cuts in this proposal, because this proposal is serious about deficit reduction.

The Republican budget runs the risk of us repeating the same mistakes that we made in 1981. In 1981 we thought we could cut taxes. We promised to control future spending. We saw the deficit soar. We could very well end up with the Republican budget devastating programs for our seniors, for our children, and our environment, and still have large deficits. That is the risk we run with the Republican budget.

The coalition budget puts the spending cuts towards deficit reduction, where it should. It does less cuts in order to preserve Medicare, in order to preserve our opportunities for higher education, in order to preserve our programs for the environment. The Members have a clear choice. In supporting the coalition budget, they are supporting cuts for deficit reduction. In the Republican plan, we are talking about cuts in order to provide for tax breaks for the wealthy. I think it is a clear choice, and I am proud to support the coalition budget.

I rise in support of the coalition budget plan. It is the best plan that has yet been proposed for balancing the budget.

Two years ago, we took a major first step toward eliminating Federal budget deficits. The 1993 budget plan has succeeded in bringing deficits down for 3 consecutive years, and the deficit in the year just ended was about half what it would have been.

This year, we have to take the next step, and move toward a balanced budget. The coalition budget will balance the budget in 7 years, through spending cuts that are real, but not harsh. The plan balances the budget more quickly, with less borrowing than the Republican leadership budget.

The coalition budget is not perfect. The cost of living adjustment in this plan raises many serious issues that have not been adequately considered. The level of Medicare cuts would not devastate the program, as the Republican plan does, but they exceed the amount I believe is necessary. I would have preferred alternative spending cuts.

Nonetheless, the authors of the coalition plan have learned the lessons of recent budget history. In 1981, in the Reagan revolution, Congress enacted the Reagan plan of tax cuts and promised spending cuts. What resulted was an explosion of Federal deficit spending.

Today, in 1995, the Gingrich revolution is hell-bent on repeating the fiscal mistakes of 1981. By cutting taxes by $245 billion, mostly to benefit the most well-off Americans, this plan again puts the cart before the horse. We should not be borrowing hundreds of billions of dollars for tax breaks, while we are still piling up hundreds of billions of debt. With the Republican budget, we could very easily end up slashing programs that are needed for our seniors, students, and the environment, and still have large budget deficits.

The coalition budget is driven by the need to balance the budget, preserve Medicare, and maintain our commitment to higher education. The Republican leadership budget is about cutting taxes and taking the first step toward eliminating Medicare. Do not take my word for it. Speaker GINGRICH, the architect of this plan, yesterday said that he would have gotten rid of Medicare but it would not be ''politically smart.''

The difference could not be clearer. The coalition budget cuts spending to balance the budget. The Republican budget cuts taxes to benefit the wealthy, and cuts Medicare as a first step toward eliminating this most successful American program. I urge my colleagues to support the coalition budget, and reject the committee budget.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to my friend, the distinguished gentleman from Pennsylvania, [Mr. WALKER], the czar of science, and the vice-chairman of the Committee on the Budget.

Mr. WALKER. Mr. Chairman, I would like to begin by thanking the coalition for bringing forward a balanced budget to the floor, and allowing us to debate a couple of different balanced budgets out here on the floor. I think that is a useful thing to have done. I happen to think that it is preferable to give the American people an opportunity to get some tax cuts out of all of this to what the coalition has done, but I think it is useful to have a debate about this.

I happen to believe that some of the spending reductions that we are making are in fact responsible spending reductions, because they go toward trying to reform the system a good deal more than what the Coalition does. But again, it is a useful exercise.

The reason why the tax cuts are important is for the reason of what happens in my district. Sixty-five million dollars in tax cuts come primarily to families with children in my district; over 100,000 children in my district are eligible for tax cuts. Their families are eligible for tax breaks under our budget. That is something that gets denied under the Democrats' proposal on the floor. I just think that it is a better plan to give people back a little bit of what they owe.

Mr. Chairman, I am a little disappointed, I must say, in the debate that we had a little earlier today that suggested, for instance, that the Speaker had spoken out against Medicare.

The fact is, some of the charts I saw on the floor and some of the phoney language I heard from the other side is very disappointing because I think some of the people may have known about it. The fact is, the Speaker's quote is quite clear in what we said. He was talking about HCFA. He was talking about a centralized bureaucratic monstrosity that is in the government called HCFA. He said that perhaps at some point we ought to get rid of some of the bureaucracies that surround all of this process.

It seems to me that that is what the American people have told us. They have told us that government is too big and spends too much and that we ought to get rid of a lot of the centralized bureaucracy. I think the American people would agree with that. Nothing was said by the Speaker that indicated that he was talking about Medicare in any way, shape or form.

So I think for some of the disingenuous language that we have heard on the floor today about some of the issues we have seen discussing is disturbing. That being said, Mr. Chairman, it

is a good thing to be debating balanced budgets.

Mr. ORTON. Mr. Chairman, I yield 10 seconds to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I would like to remind my friend from Pennsylvania that the chairman of the Committee on the Budget has informed this body that the $500 per child tax cut is not in his bill.

Mr. ORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Chairman, I want to thank the gentleman from Utah [Mr. ORTON] for yielding me the time.

Mr. Chairman, I want to reiterate something that has reverberated through this chamber and that is the Coalition budget gets to balance in 7 years every bit as much as the Republican budget gets to balance. However, ours is more responsible, it is wiser and fairer.

Mr. Chairman, I would tell the Members that I do not know of any group of people who have more credibility on the wisdom of a balanced budget in this Nation than the Concord Coalition. Those of you who are listening, the Concord Coalition is a bipartisan group who came together because of their concern, all of our concern, about our national deficit and debt. The Concord Coalition has endorsed the Coalition budget today as being the better way to go for our country.

In welfare reform, for example, we put people to work in a better way and faster than does the Republican plan. We do not rob the people who are trying to stay off of welfare of their earned income tax credit, the working poor, the people who are getting up every day and going to work, trying to stay off of the welfare rolls, that is simply the wrong way to go. They need a helping hand, a hand-up and not a handout. We do that in the Coalition budget.

But more importantly, let me say that we were sent here for an American solution, not a Democratic or a Republican solution, but an American solution, representing people in our districts consistent with the national interests. Democrats, Republicans and Independents. The Coalition budget is an American solution to the disgrace that our national deficit has become.

So when you hear all of this rhetoric about the Republicans have all of the answers, it is simply not true. Neither do the Democrats. This 23 maverick Democrats in the middle, as the Philadelphia Enquirer called us, have the American solution.

Mr. FRANKS of New Jersey. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I rise today in support of the Republican plan which will balance the budget and give the opportunity for all Americans to have reductions in their mortgage so that they can better take care of their families and have the American dream realized. It will lower by at least 2 percent their auto loans, which again will put more money back in their pocket. It will also reduce for them the cost of student loans for college, at least by 2 percent or more. Over the life of a loan, we are talking about a lot of money.

It will also help senior citizens by making sure we have the rollback of the 1993 Social Security tax. It will also give senior citizens the ability to make about the $11,280 we have been talking about, which the ceiling is falsely there now, stifling opportunity; and under our legislative, the total package, we will now have, for the first time, the ability to make up to $30,000 a year for seniors under 70 without impinging on their Social Security.

So for seniors, for working people, for children, for all Americans, by balancing the budget for the first time since 1969, we will actually help America move forward fiscally for every family.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPRATT].

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

Mr. SPRATT. Mr. Chairman, I rise in support of the Coalition substitute. This substitute shows that we can wipe out the deficit without wiping out programs.

We can take on this task today of balancing the budget in 7 years only because 3 years ago, we began the quest for a balanced budget on our side of the aisle.

Let put that in context. On January 13, 1993, one week before he left office, President Bush handed in his ''Economic Report of the President.'' Turn to page 69 of this Report, and you will see that President Bush projected a deficit for 1993 of $332 billion. In March 1993, this House passed a budget, solely with Democratic votes, which put the deficit on a path downward and steered us away from that projection.

Yesterday, the President announced the results. The deficit for fiscal year 1995 was $164 billion—half the deficit President Bush projected for his last year in office. But for what we have achieved over the last three years, we would still be looking at deficits as far as the eye can see. We could not even hope to balance the budget in seven years.

Even so, balancing the budget in this timeframe is a tall order. My first problem with the Republican budget resolution was that it took a tough problem and made tougher by stipulating $350 billion in tax breaks, mostly for upper-income Americans. Those tax cuts have been compromised down to $245 billion; but guess who bears the brunt of that compromise? Working families, whose Earned Income Tax Credit will be reduced by $23 billion so that the Alternative Minimum Tax can be taken off the books, and some of the largest corporations in America can be taken off the hook when it comes to paying a fair share of taxes.

What are the consequences of such tax breaks? It's very simple: spending has to be cut by $245 billion more than otherwise needed to balance the budget over 7 years. And where do these extra spending cuts fall? On the old and very young, who depend on Medicaid, which the Republicans would slash by $182 billion. And they hit the elderly again, in the form of higher premiums for Medicare, and benefit payments so low they are sure to shut down small hospitals and rural as well as inner city hospitals.

Not everyone in this House seems concerned by such a scenario. Yesterday, the Speaker, with some pride, told a gathering from Blue Cross-Blue Shield that under his proposal, Medicare as we know it will ''wither on the vine.''

I cannot vote for a budget that will cause Medicare ''to wither on the vine.'' I am not willing to wreck programs on which peoples' lives depend under the guise of balancing the budget, especially when it is not necessary to commit such carnage.

We have before us a substitute that offers a better way to a balanced budget. It reduces the cost of Medicare by more than I would like, but by enough to ensure that its solvency. It lowers the cost of Medicaid, but saves its integrity. And it puts us on a straighter course to a balanced budget because it avoids any diversion into tax cuts until the task is accomplished.

I urge my colleagues to vote against a budget that will cause Medicare to ''wither on the vine,'' and wreck Medicaid, and run up the cost of student loans. We can wipe out the deficit without wiping out programs that millions of Americans depend on. We should all vote instead for the Sabo-Stenholm-Orton substitute.

Mr. ORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in strong support of the Orton alternative.

It is a real and positive alternative that would solidify America's economic future.

Our deficit threatens our health as a nation and our ability to be competitive in our global economy. This Orton package balances the budget and meets our responsibilities to the future.

As a strong supporter of the balanced budget amendment, I recognize that we must make tough choices. We do that. Without attacking the middle class. Without taking Medicaid benefits from children and seniors. Without gutting Medicare.

This bill cuts $100 billion less from Medicare than the bill rammed through the House by the Republican leadership last Thursday.

The coalition alternative restores solvency to the Medicare Trust Fund without stealing money from seniors for tax breaks for the wealthy.

Over 7 years, the Medicare provisions in the Republican bill would cut $2,700 more per senior than this alternative.

This alternative provides a total of $80 billion more in discretionary spending for priorities such as job training, housing, economic development, and education.

It does not cut student loans—a Republican provision that has students at the University of Maryland justifiably worried about whether or not they can finish their education.

The amendment rejects the most damaging farm program cuts included in the Republican bill.

This sensible alternative also rejects cuts in Federal employee benefits.

The welfare reform provisions in the alternative, which 204 Members of this body supported, represented true reform, that plus parents to work and protects the well-being of children.

Mr. Chairman, this is responsible government. It makes tough choices and gets us to a balanced budget in 2002. As the sponsors have stated it uses ''honest numbers, shared sacrifice, sound priorities, and common sense'' to get our budget balanced.

Instead, the alternative imposes real discipline on spending. Unlike the Kasich bill it does so while continuing our commitment to invest in Americans to ensure a strong, healthy, educated nation.

Passage of this alternative would be good news for the citizens I represent and for all Americans. I urge a vote for the Orton-Stenholm-Peterson-Sabo alternative.

Mr. KASICH. Mr. Chairman, I yield myself 1 minute to say, with regard to the gentleman from Maryland [Mr. HOYER], if you take the best collection of the Beatles, which in essence is what the Blue Dogs did, they took the best pieces of our plan and recorded an album, any way you shake it or cut it, it still is the fundamentals of the Beatles, and their plan is still the fundamentals of ours.

They are to be complimented for having real numbers and for trying to balance the budget. But let us not dwell too much on the difference between the two proposals. It is the best of what we have to offer, and I compliment them for that.

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

Mr. KASICH. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, if we have taken the best of the Kasich program, would it not be best to support it?

Mr. KASICH. Mr. Chairman, the answer is, no. The problem with that, I say to the gentleman, is that you take off the icing and you can take the easiest things to do without completing the job and without also giving people some of their money back. But the point is that the Blue Dog budget is a positive document and it bears an amazing resemblance to the document that we will vote on later this afternoon. That is, frankly, why I want to compliment the folks for their program, but they could have done better.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let us talk about this maybe in a little more simple terms. The fact is is that the Democrat alternative has more taxes, has higher taxes than the Republican proposal and has higher spending than the Republican proposal.

If the gentleman is suggesting that we should take those taxes and cut some of that tax decrease out and use it to balance the budget faster, I think that would be one question; but to go back to the same old story of higher taxes and higher spending is not the way we need to go.

There was a comment that used the word draconian. Mr. Chairman, what we are doing is we are cutting 10 percent out of our budget. A lot of families in the United States cut 10 percent out of their budget in 1 year. We are taking 7 years to cut 10 percent out of our budget. It is ridiculous.

The spending of this Congress is out of shape, it is out of style, and let us get back to the real world and let people keep their money in their pockets.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MCHALE].

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

Mr. McHALE. Mr. Chairman, I rise in strong support of the Coalition budget. The Philadelphia Enquirer called it a hint of sanity.

Today, I rise in opposition to the Republican reconciliation bill, H.R. 2491, which will devastate essential Medicine and Medicaid programs, institute tax cuts which will disproportionately benefit the wealthiest in our country, and debilitate entitlement and discretionary programs which are essential to securing the economic and environmental health of this country. I will support the Orton substitute to balance the budget by the year 2002.

Through the $452 billion in Medicare and Medicaid cuts, the Republicans are asking far too much of our most vulnerable citizens. In my State of Pennsylvania, Medicare currently serves one of six citizens, or more than 2 million people. Medicaid covers one in every seven residents. The impact of these cuts on our seniors will be profound: Forty-five percent of Medicaid dollars spent in Pennsylvania are for long-term nursing care for the elderly, and Medicaid dollars account for more than half of total nursing home care in the United States. These two programs have proven to be remarkably successful. In 1959, only 46% of seniors had health coverage. By 1995, this number had increased to 99%. I do not support cuts in these programs which go far beyond ensuring the solvency of these programs, and will endanger the viability of these programs for future generations.

The Republican bill contains irresponsible tax cut provisions which will benefit the wealthiest, and unfair cuts in the EITC program which will increase taxes on the poorest working families. Two thirds of the Republican's proposed tax cut would go to families in the top fifth distribution of income. Further, in my district, the 15th District of Pennsylvania, $16,644 hard working families will have their taxes increased by almost $2.3 million through the Republican EITC cuts, according to the Treasury Department.

Republican cuts in student loan and education programs will increase the cost of student loans and significantly raise the interest rates on parent loans—making college much less affordable for the middle class. The Republican budget reconciliation also opens the Arctic National Wildlife Refuge the Nation's second largest national wildlife refuge, to oil and natural gas exploration and drilling—paving way for the destruction of one of our most precious and unpolluted natural resources.

The Orton substitute is an effective, financially responsible document which will balance the budget by the year 2002 without drastically cutting Medicare, Medicaid, and other crucial programs and without implementing irresponsible tax cuts before a balanced budget is achieved. The Republican reconciliation bill represents a betrayal of basic principles, while the substitute is a fiscally sound, budget-balancing document which embodies necessary and prudent budget decisions.

Therefore, I urge the defeat of HR 2491 in its current form and the adoption of the Orton substitute.

Mr. ORTON. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. POSHARD].

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

Mr. POSHARD. Mr. Chairman, earlier this year, the Entitlement Reform Commission told us that all tax dollars would be spent on entitlements and interest on the debt by the year 2012 and if we continue our present course we will bankrupt the nation.

Therefore, we must stop this borrowing and spending and we must balance the budget.

The Medicare trust fund board told us we must act to restore the trust fund balance to its normal 10–12 years instead of the 6-year balance to which it has presently sunk.

Both of these reconciliation bills will balance the budget in 7 years and restore solvency to Medicare.

Only one, however, does it without massive downsizing of Medicare, Medicaid, Education, Agriculture, and Pension funds. That is the coalition budget and it is the one we should support because it puts spending cuts toward deficit reduction, not toward tax breaks for people who are not asking for them.

Mr. Chairman, in 1992 we faced the impending collapse of the Coal Miner's Retiree Health Fund. Several hundred companies who had thousands of retired miners basically said what this bill allows.

They said, ''Even though these retirees were our employees all these years, and even though we have signed signatory agreements guaranteeing their health care, through our contributions to the Retiree Health Care plan, now, because we no longer want to be a part of the Bituminous Coal Operators of America, we no longer have any obligation for the health care of these retirees.''

Well, a bipartisan agreement in this Congress is 1992, negotiated by a Republican Secretary of Labor and signed by a Republican President said to those companies, ''You do have an obligation. You can't just transfer your responsibility to the remaining BCOA companies and force them to pay your bills.''

Mr. Chairman, if the bill stands, the remaining companies will assume an additional $58 billion a year for these orphaned retirees.

We're struggling now for the survival of our coal economy and we're going to put this additional burden on the companies who are still mining!

Increase their costs, the ones that are being responsible? The coal companies who are mining the coal and the unions agreed on this. This isn't a one-sided agreement.

Please don't allow this agreement to be rescinded as a part of the reconciliation bill.

The Coal Act which I helped pass in 1992 helped keep the health fund from collapsing and helped preserve both health care and peace of mind for nearly 100,000 mining families in this nation. The shift of costs and responsibility back to only those companies who are still in business will upset the competitive balance in the coal industry, which is already struggling to comply with the onerous provisions of the Clean Air Act.

While this provision is certainly important to me and thousands of mining families in my district, I am also very concerned about how this bill will negatively impact my district in many other ways.

That is why I am cosponsoring the Coalition Budget, which I have worked to develop along with a host of colleagues who are moderate and conservative Democrats. The people behind this alternative are seasoned veterans in the war against deficit spending.

Our budget is demonstrably better than the leadership proposal in a number of ways. Our budget controls Medicare spending by $170 billion over five years—enough to restore solvency to the trust fund and to control government spending to help us reach a balanced budget. We don't take an extra $100 billion out of Medicare to finance unwise and unnecessary tax cuts, as the Republican plan proposes. Likewise, our Medicaid proposal maintains nursing home standards and continues to guarantee health care for the poor and elderly.

On the discretionary spending side, our budget has $80 billion less in budget cuts for areas such as education, job training, job creation and housing.

And in the area of agriculture, which is the economic foundation of the 19th District of Illinois, we reject the lopsided cuts contained in the Republican budget.

On balance, the coalition budget which I support is clearly better for my district, the State of Illinois and the country as a whole. We reach balance in 7 years. We reform programs such as Medicare, Medicaid and welfare, taking the necessary steps to control rising costs but ensuring there is a way to help people maintain a decent standard of living. There are budget cuts across the spectrum of federal spending, but we have prioritized and balanced our spending plan to help middle-income families afford a home and send their kids to college.

I know that our proposal is not likely to be accepted today. The Republican plan will pass, the Senate will pass its version, and the conference agreement will go to the President and he will veto it. At that point in time, we will have to come back and work as a legislative body to reach consensus and do the job the people sent us to do. The final agreement is also likely to contain some provisions with which I very much disagree, but I will continue to keep an open mind and work in a productive way to do what's right for this country—to balance the budget.

My strong belief is that the budget which I cosponsor and have worked for looks a lot like where the final agreement will be, because I think it is the most fair and balanced approach.

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Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS], a distinguished member of the Committee on the Budget.

Mr. SHAYS. Mr. Chairman, I first want to thank the Coalition. The Democratic alternative is a very fine plan. I think there is some if not a good deal that we should be talking about when we ultimately come to a conference agreement between the House and the Senate.

When I look at this budget, I see that their budget balances the budget in 7 years, and that is what we are asking the President of the United States to do. If he does that, we go a long way to having a point of agreement. So I am encouraged that my colleagues on that side of the aisle who will vote for it will be sending a message to the President.

I am also encouraged that it looks at the growth of Medicare and Medicaid and particularly Medicare and attempts to cut the growth by $170 billion. We are attempting to cut the growth by $270 billion. So there is a difference of $100 billion. In my judgment, that $100 billion change in the growth needs to happen. So we have a disagreement there.

But, on balance, there is a lot that can be complimented about this. I like the plan that we have done, and I believe in the tax cuts. I believe that if we are going to take 7 years to balance the budget, that we can, in fact, afford a tax cut; and I believe that the group that needs it the most are those that have children that are under 17 years of age and can get that $500 tax credit.

I also believe in the capital gains, because I think it generates economic activity rather than causing a loss in revenue. But, on balance, I congratulate my colleagues. They, I think, have gone a long way in helping the White House and both Chambers realize that, ultimately, we can come to an agreement.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DDE LA GARZA].

(Mr. DE LA GARZA asked and was given permission to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Chairman, I rise in strong support of the Democratic substitute and I want to commend my colleagues for their work in its development. I especially wish to recognize my friend from Texas, Mr. STENHOLM. We worked together with other Agriculture Committee Democrats to develop the agriculture provisions now contained in the substitute—the alternative receiving the fewest no votes in the Agriculture Committee.

Mr. Chairman, the substitute amendment does what the American people want. It results in a balanced budget for fiscal year 2002. It is particularly attractive to me and to those who know agriculture because it achieves that goal without endangering the strength of our food and fiber production system and without decimating the nutrition programs that are vital to so many American families.

Mr. Chairman, we pointed out earlier that the cuts in agriculture made by the Gingrich bill are just too severe. Agriculture is the very foundation of our Nation's economy. Our basic farm programs have played a significant role in the farmer/government partnership that has been so successful in assuring that our Nation has a safe, reliable, and affordable food supply. The Gingrich plan to reduce Federal spending on farm programs by $13.4 billion will threaten the economic viability of American agriculture and thereby endanger our food security.

To take such an enormous risk with our food production system in order to provide a tax cut is a reckless approach to fiscal policy.

Mr. Chairman, the substitute includes savings from agricultural programs. It would reduce farm spending by $4.4 billion over 7 years. Agriculture always contributes its share to deficit reduction—from 1981 through 1993 we cut $50 billion out of farm spending. But this substitute cuts these programs in a responsible manner and in a way that preserves the farmer/government partnership that has so successfully served to satisfy our nation's food.

FOOD STAMP

This substitute also achieves over $17 billion in food stamp savings over the next 7 years. These are painful cuts in a vital program that keeps millions of people from going hungry every day; but Democrats are supporting the welfare reform provisions of the substitute because we cannot vote for a bill that incorporates the harsh welfare reform legislation passed by the House last spring. The Democrats are strongly in favor of welfare reform and want the public record to properly reflect our commitment to welfare reform.

Although this substitute will reduce the amount of food stamp benefits people will get in the future, it assures that those benefits will never go below 100 percent of the thrifty food plan. People will continue to get enough benefits so that they can purchase a nutritionally adequate diet.

Unlike H.R. 4 as it passed the House, the food stamp provisions of the substitute bill do not cap the funding for food stamps. The substitute retains the flexibility in funding necessary to accommodate downswings in the economy and the subsequent increases in program participation. If the economy of a locality falters for a time, people thrown out of

work will be able to feed their families under our proposal; adequate funding will be available.

Our proposal contains strong incentives to get people out of the food stamp program and into jobs, but it doesn't kick them out of the program if they are wanting and willing to work and there are no jobs available.

The substitute contains all of the fraud and abuse provisions proposed by USDA. The Gingrich bill contains only about half of those proposals. We must do everything possible to maintain the integrity of the food stamp program, to assure that these vital benefits go to those who need them most.

The substitute bill puts us on the road to true and effective welfare reform without putting huge holes in the food safety net. It cuts farm spending without endangering the foundation of our food production system. I urge my colleagues to approve this substitute.

Mr. Chairman, there are several misperceptions about the different agriculture bills that need to be clarified.

First, we need to talk about reductions. Neither the Democrats nor Republicans are saying that Agriculture should be exempted from the Reconciliation process. Agriculture has always given its fair share. We have cut agriculture over $50 billion since the 1980's. It is the only major entitlement program that has steadily declined and continues to decline. So we are in agreement.

What we don't agree with is having to cut Agriculture an additional $9 billion in order to pay for a $245 billion tax cut. It isn't that we don't like tax cuts. It isn't that we don't support the many tax cuts that are proposed. It is the simple fact that this is an inappropriate time to cut taxes (although I will note that on the working poor we are raising taxes)—when we are trying to balance the budget.

In addition, Chairman Roberts said that American farmers would pay $15 billion less in interest expenses because of a balanced budget. Mr. Speaker, the Substitute will reduce the interest expenses for American farmers the same $15 billion because the Substitute also balances the budget.

Second, we need to talk about trade. The Gingrich plan will cut our trade programs by $1.2 billion. We are now implementing the GATT Agreement that many of us supported. This is a crucial time in Agriculture as we implement this agreement. I fear that many of my colleagues have the perception that, because of the GATT Agreement, we are now on a level playing field with our competitors. Nothing could be further from the truth. Yes, this Agreement will reduce spending in agriculture. However to some extent it locked in the inequities that existed. The EV still currently subsidizes its agriculture 6 times more than the U.S. The Substitute recognizes this crucial fact and fully funds our export programs so that American Agriculture can compete abroad and maintain its markets.

Third, we need to talk about flexibility. It is being represented that one bill allows flexibility and the other doesn't. This is simply incorrect. Democrats and Republicans both agree that farmers want more flexibility in commodity programs. Both the Substitute and ''Freedom to Farm'' allow producers more flexibility. ''Freedom to Farm'' allows producers to plant program and other specified crops on their base acres. The Substitute is similar in that it provides this flexibility with the total acreage base concept and with additional safeguards for certain commodities if supplies are in excess.

And fourth, one of the most basic differences between the two provisions goes to the core of what our farms programs are designed to do. My farmers have never said that they want a handout. My farmers have never talked to me about preserving the baseline. They have talked to me about getting a decent price for their crops and about various ways to minimize risk. Farmers don't need a guaranteed payment when prices are high. Many people will say that some times when prices are high farmers don't have a crop to sell. That is why we have tried to make crop insurance a workable program. It still has many problems, but it is a concept that we need to continue to improve. Our commodity programs in the Substitute are designed to provide farmers with risk management when prices are low. ''Freedom to Farm'' just does not provide the safety net that producers need to survive in the face of certain weather, prices, and world conditions.

Mr. Chairman, Chairman Roberts said that Freedom to Farm will lock up the baseline for farmers so that when we have to pass more cuts in coming years—and he said not to fool ourselves, we will have more deficit reduction bills just like this one—that farm spending will be protected.

Mr. Chairman, I don't know why there will be more cuts and reconciliation bills in coming years. Perhaps the tax cuts are too high or the spending cuts are not real in the Gingrich package, but if you vote for the Substitute, there will be no need for future reconciliation bills because it will balance the budget.

Mr. ORTON. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. As usual, my friend, the gentleman from Ohio [Mr. KASICH], is right. We do take the best parts of their plan, and we make it better.

As far as our Nation's veterans, the coalition budget makes $1.5 billion less in spending cuts for veterans' programs. The leadership plan would extend the prescription drug co-payment and raise it by $1. The Coalition plan does not.

But, most importantly, the coalition plan enacts the text of H.R. 580, a bill that has over 220 cosponsors, and provides much-needed military subvention, allows our military retirees to take their Medicare payments to a military hospital. This is a plan that has been endorsed by the Coalition of Military and Veterans Associations, the Retired Officers Association, the Fleet Reserve Association, the Air Force Association, the Army Association, the Marine Corps League, the Marine Corps Officers Association, the Military Order of the Purple Heart, the National Association of Uniformed Services and 30 other veterans' groups want to see this plan become law.

We have a chance to do that by passing the coalition budget.

Mr. ORTON. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. BAESLEB].

Mr. BAESLER. Mr. Chairman, the second place I think the coalition budget is superior to the budget presented by the Republicans is in the area of education. The coalition believes that education is an investment in our Nation's future. The $10 billion question is whether or not we want to make it harder for young people to invest in our own future. the coalition believes the answer is no.

The Republican plan would eliminate the 6-month, interest-free grace period, thus costing graduate students $2,500. The coalition plan thinks that is unnecessary and unfair.

The leadership plan would increase the rates that parents have to pay on the plus program. This could cost parents an additional $5,000 when repaying these loans. The coalition plan does not ask the parents to take on this additional burden.

The leadership plan eliminates direct lending as an option for schools and students. The coalition plant does not eliminate direct lending. The coalition plan believes that education cuts do not heal.

I hope my colleagues will join me in encouraging this investment by supporting the coalition reconciliation plan.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas, Mr. PETE GEREN.

(Mr. PETE GEREN of Texas asked and was given permission to revise and extend his remarks.)

Mr. PETER GEREN of Texas. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support of the Medicare subvention provisions in the coalition budget and endorse the coalition budget.

Mr. Chairman, I rise to give you yet another reason why the coalition alternative deserves your vote. We have included a provision in our alternative on Medicare subvention that has widespread and bipartisan support. It is similar to H.R. 580 which has 222 cosponsors. Not only does this proposal make dollars and cents, it corrects an inequity in the way we provide health care to our military retirees.

This proposal would allow our military retirees to use military treatment facilities with the cost of care reimbursed by Medicare. Under current law, the DOD receives no reimbursement when it treats Medicare-eligible retirees, and they are frequently the first group of beneficiaries to be denied care when budget cuts force cutbacks. Yet the military facility is the more cost-effective provider of care. The current arrangement makes no sense.

Mr. Chairman, there are 1.2 million military retirees age 65 and older in America. These men and women dedicated their lives to protecting our freedom. Right now, these retirees pay into the Medicare program as do all Americans, but Medicare will not cover their care because they receive their health care at military facilities. In 1994 alone, the DOD provided more than $1 billion in care to 230,000 Medicare-eligible retirees. Medicare should reimburse the DOD for these costs. This is good for the retiree, after all it's his or her first choice, and it is good for the taxpayer because it saves money.

Why is this so? Because health care costs at military facilities are 10 percent to 24 percent less than in the private sector, which is

the price that Medicare has to pay. This proposal will save Medicare and the taxpayers billions of dollars as we struggle with balancing our budget.

But more important than that, I stated that this proposal corrects a basic inequity for our military retirees. Because of shrinking budgets, our military retirees are seeing their access to care diminish, care that they earned by their service to America. This proposal will ensure that these retirees will receive the access to care they deserve, from the doctors they choose.

Mr. Chairman, this reform is long overdue. Many military retirees choose military facilities over private providers, and we should expand that option by having Medicare cover those costs. Our military retirees deserve this and it saves money. Mr. Chairman, this is a no-brainer. It is a win/win situation.

I urge my colleagues to support our military retirees and vote yes on the coalition substitute.

Mr. KASICH. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. DELAY], our distinguished Republican whip.

Mr. DELAY. Mr. Chairman, I thank the chairman of the Committee on the Budget for yielding me the time, and I just want to commend him. It is been a long road for the gentleman from Ohio, but he is here today, and we are all very, very proud of the work that he has done and very proud of him.

Mr. Chairman, I want to rise in support of this historic reconciliation legislation and obviously in opposition of the Democrats' alternative.

Many people have trouble understanding what the reconciliation process really is. I believe it is where we reconcile our campaign promises with our legislative agenda. In other words, we are putting our money where our mouth has been. Pundits have called the Democrat alternative humble. Well as Churchill would have put it, it has much to be humble about. It does not give tax relief for American families, it does not save Medicare, and most of the Democrat leadership will not even support it.

Let me focus on the biggest difference between the Republicans and the Democrats in this debate: taxes. Republicans believe that there is a moral imperative to cutting taxes. If we fail in this endeavor, we will break faith with the families and the voters of this great Nation.

The Democrats in the Congress have a different view. They are squeamish about cutting taxes. It cuts against their philosophy, and it is shown in this substitute. The reason they are against cutting taxes is they want to spend more money. They have branded our efforts to be tax cuts for the rich. Never has so much been said by so few that has been so wrong. When Bill Clinton knows it is wrong, he admitted it himself.

Beyond the rhetoric, here are the facts: Under our bill, a family with two kids earning up to $24,000 a year will not have to pay any taxes at all. Our plan actually removes 3 million low-income families from the income tax rolls, and a family of 4 that earns $24,000 a year or more will pay $1,000 less in taxes than they paid last year under our plan.

Do we really cut taxes only for the rich? Is a $500 tax credit for children a tax break for the rich? Since when is it politically incorrect to help families take care of their children? Is our adoption tax credit a giveaway to the rich?

Let me tell you something. Those children who desperately need to find homes that are safe and secure do not think they are rich.

Is our repeal of the President's Social Security tax increase a giveaway to the rich? Frankly, I do not even think the President believes that anymore.

How about the infamous capital gains tax cut? We all know that, without the capital gains tax cut, the economy will continue to chug along at its current 2 percent per year growth rate. I thought I would never see a President of the United States brag about a 2 percent growth rate.

The real victims of this meager growth rate are those who cannot find jobs, those who cannot afford to start their own businesses, those who have never heard opportunity knock. Are they really the rich? They do not think so.

Republicans will not be intimidated by the Democrats' rhetoric on tax cuts. If we cut taxes, we will be doing what the American people sent us here for. We will be keeping our promises with our constituents. There are only positive political consequences when you keep your promises.

I hope the American people remember just one thing: These tax cuts are only 40 percent of the $600 billion that were raised in tax increases in 1990 and in 1993. These tax cuts are simply a down payment on the principle of smaller, more efficient and more effective government.

Bill Clinton has expressed taxer's remorse over his efforts to raise taxes in 1993. Maybe now he will get the message that we can cut taxes for families and balance the budget in 7 years.

Mr. Chairman, I just urge my colleagues to support historic change, vote down the Democrat alternative and vote to provide relief for the American family.

Mr. ORTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE].

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

Ms. FURSE. Mr. Chairman, I support the Coalition plan because it is fiscally conservative but socially responsible.

Mr. ORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. BROWDER).

Mr. BROWDER. Mr. Chairman, I appreciate the gentleman yielding me the time.

Mr. Chairman, the coalition reconciliation plan balances the budget by 2002 just like the Republican plan but we do it in a way that is fair and responsible. I am not going to speak about the fairness, but I do want to touch on responsibility.

Earlier this year the Budget Committee traveled around the country for public hearings. Attendance at these hearings probably ran into the thousands. At every hearing, I asked if they thought we should cut taxes before balancing the budget. Overwhelmingly, the public rejected up front tax cuts. By not listening the wisdom of the American public the Republican reconciliation is unnecessarily polarizing the Nation and may cause us to fail to reach any agreement on balancing the budget this year. This is not responsible.

Make no mistake, I and many of my coalition colleagues support cutting taxes. For me, I would like to see something done on capital gains. I want a better deal for family owned businesses on estate taxes. I think a family tax credit—done smartly so it reaches families in need—is a good thing. But not in this bill.

At this stage the tax cut debate has touched off partisan bickering and class and generational warfare. When it comes to the bottom line, why divide the Nation when we are in agreement on what really needs to be done—balance the budget? Even more to the point, who go through this divisive debate when we are all in agreement that Congress soon will take up major tax reforms—many of the proposed reforms will make all our actions on tax cuts today moot.

We are in agreement that the budget should be balanced. The issue today, then, is whether we want to miss this chance just to make a political statement. The coalition sets the stage for bipartisan agreement in the best interests of the country. The Republican bill sets up a veto fight and 12 months of political rhetoric while the country suffers more deficits, more debt.

The coalition says balance first. Then nobody can charge that this is being done to cut taxes for one class while raising costs for another. Passing the coalition reconciliation would let us take up a pure tax bill—real tax reform—outside the scope of this divisive debate, so that the American people can clearly examine the spending cuts that offset the tax reductions. Then we can debate the issues of tax fairness and appropriate levels of taxation clearly and partisanship and class warfare—that is tearing this county apart—will be diminished.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. CRAMER].

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

Mr. CRAMER. Mr. Chairman, I rise in strong support of coalition plan to balance the budget in 7 years without egregious cuts, without putting tax cuts ahead of spending cuts, and without huge Medicaid and Medicare cuts.

It is often said on this floor, in reference to a particular bill, that that bill is not a perfect bill.

This may be said of the coalition plan as well.

However, the coalition proposal is the best proposal being considered today and every Republican and Democrat should vote for it.

The coalition plan is based on fairness and fiscal responsibility. The coalition plan is both tough and compassionate.

It is tough because it reaches balance in 7 years with a steady glidepath of deficit reduction and includes tough deficit reduction enforcement provisions.

It is tough because it puts spending cuts ahead of popular tax cuts.

It is tough because it reforms welfare in a way that provides tough work requirements and provides protection for children.

It is compassionate because it restores solvency to the Medicare trust fund and avoids premium hikes for low- and middle-income seniors, and avoids devastating cuts to rural and inner-city hospitals.

It is compassionate because it maintains nursing home standards and Medicare premium assistance for low-income seniors.

It is compassionate because it rejects a tax increase on the working poor.

If Members of Congress are looking for a proactive moderate proposal that reflects true mainstream American values—have I got a deal for you—the coalition reconciliation proposal.

The coalition plan proves that it is possible to balance the budget over 7 years, using honest numbers, shared sacrifice, sound priorities, and common sense.

Both The Washington Post and The New York Times, considered two of the most conservative newspapers in the country, have endorsed the coalition plan by opining that ''it [Coalition plan] is a far better solution to the deficit problem than any other in sight now,'' and ''the plan suggests the budget can be balanced by 2002 without pummeling the poor or Medicare,'' respectively.

I urge my colleagues to support the coalition plan—a plan that reflects where the majority of Americans would like to see our ideological budget debates resolved.

The CHAIRMAN. The Members should know that the gentleman from Utah has 5½ minutes remaining and the gentleman from Ohio [Mr. KASICH] has 5½ minutes remaining, and the gentleman from Ohio has the right to close.

Mr ORTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Minnesota [Mr. SABO], the ranking member of the Committee on the Budget and the former chairman of the Committee on the Budget.

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

Mr. SABO. Mr. Chairman, I rise in support of the Orton coalition budget alternative that is before us today. It accomplishes the goal of balancing the budget by the year 2002 in a fashion that is reasonable, fair, and tough but not mean.

Let me speak to some components. Clearly the area of big cuts in the Republican plan is health care. The Orton alternative makes reasonable change and reform in Medicare. it deals not only with part A of Medicare, it also deals with part B which comes from general revenue and impacts the balance of our budget.

In my judgment, there are 3 numbers that are very clear.

□ 1715

If one wants to simply deal with the solvency of the part A fund for the next decade, you can do $90 billion of change. If you want to deal with part A, part B, deal with higher premiums for high-income people, balance the budget, you can do it with $170 billion. If your want to deal with solvency, balance the budget, and then have a tax cut, that requires $270 billion, changes that I think are totally unacceptable in Medicare, and puts in question the long-term sustainability of those kind of cuts.

The Orton proposal restores $100 billion to Medicaid to deal with health care for the most vulnerable of children, of seniors, and of disabled in our country. Because one says let us get our fiscal house in order first, it means that we have discretionary funds so we can deal with the problems of education and housing and economic development in our country. The proposal deals with welfare reform in a tough way, in a method to put people to work but have training and child care there available for them. It does not have the meanness that some proposals have. It gets the job done. It would help people, not hurt them.

So, Mr. Chairman, I congratulate the gentleman from Utah and all the people who worked with him in putting this alternative before us. It is a good alternative. The country would be well served if it became law

Mr. ORTON. Mr. Chairman, I thank my former chairman for his very knowledgeable statement.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

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

Mr. STENHOLM. Mr. Chairman, I first want to associate myself with Chairman Kasich's remarks earlier today when he commented on the remarkable shift in philosophy toward a balanced budget which has occurred in our country. John, you have done as much as any single individual to bring about that shift and I am grateful for the role you have played.

I also associate myself with many of the comments of my ranking member. My Swedish ancestors may turn in their graves but Martin Sabo is one Norwegian who has earned my deepest, highest respect.

Finally, I have been proud to spend hours locked up in rooms with coalition members and our staffs as we fought our way through this massive reconciliation substitute. I am proud of our product, making tough choices, always with an eye toward fairness and reasonableness.

All Members know that launching into the intricacies of the Federal budget can bring about an eye-glazing, bring-numbing boredom. But budgets are about much more than numbers; they are about people and our values.

When the coalition budget reaches balance in 7 years it is not just numbers. It is an assertion of the value that our children and grandchildren should be given as much economic opportunity as we were, not have to pay for our irresponsibility.

By putting spending cuts ahead of tax cuts we reinforce the value that rewards should come after hard work, not before. We are not opposed to tax cuts. We simply learned from the 1980's that when dessert comes first, you never get to the spinach.

The coalition budget makes reforms in Medicare to keep the program solvent well into the next decade. Value: keep the promises you have made, to today's and tomorrow's seniors.

Similarly, the coalition budget finds a numeric middle ground in Medicaid. Value: A society will be judged by the way it treats its most vulnerable citizens, particularly young children needing basic health care, senior citizens needing guaranteed, quality nursing home care, and the disabled.

The coalition budget would fundamentally reform America's welfare system, moving people from welfare to the work force, but also it includes sufficient funding for child care, job training, and other building blocks necessary to make a welfare reform policy more than a pot full of empty political promises. Value: balance compassion with a sense of personal responsibility.

The Coalition budget maintains support for student loans and agriculture. Value: treasure, nurture, and develop your national resources if you want to remain strong and healthy. Unilaterally disarming the American farmer as he seeks to compete in the international market place food makes about as much sense as unilaterally disarming our country militarily. Disarming our American students by depriving them of the education they will need to compete globally is equal folly.

Finally, the coalition budget includes the only meaningful budget enforcement to be found in this debate. Value: if you expect people to believe what you say, you ought to police yourself in ways that show you mean it.

Our budget includes hundreds of numbers but all of those numbers draw a picture of values Americans are desperately seeking in their elected officials and in public policy: responsibility, honesty, fairness, compassion. Vote for a commonsense reconciliation budget full of the common values held by most Americans. Vote for the coalition substitute.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. SAWYER].

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

Mr. SAWYER. Mr. Chairman, I rise in support of the Coalition substitute.

Mr. Chairman, today, Congress is debating the Republican budget reconciliation proposal.

This bill is just bad policy.

The Republican bill will cut $270 billion from Medicare, $10 billion from student loans, and $180 billion from Medicaid. I agree that we need to find ways to reduce the budget deficit. However, I am concerned that we have decided to do so by transferring the burden to poor and low-income Americans who are already struggling to get by.

The combination of a large national debt and the aging of the post-war generation will place an even greater burden on younger generations. Our national policies must reflect this changing reality. As we seek ways to balance the budget, we must also continue investing in our Nation's future—including expanding access to higher education. These investments will be essential to preserving living standards and ensuring higher wages for the challenges we face in the future.

Twice before in our history, our Nation was able to grow out of a large national debt by investing in human capital. In the last century, the establishment of the Land Grant College system made higher education something to benefit all Americans. The G.I. Bill further increased access to higher education, strengthening a new American workforce able to face the changing needs of the country and the times. As we once again face a mounting national debt, history can be a model for our policy decisions.

The higher education cuts in the Republican budget proposal will increasingly restrict access to higher education in this country. These cuts will increase the cost of postsecondary education and may put college out of the financial reach of many families. Access to higher education has never been more important. Today, the incomes of Americans with college degrees are over 75 percent more than those with a high school education.

It is no exaggeration to suggest that higher education has helped create the American century. Our system is the envy of the world. We would be shortsighted and foolish not to take the full measure of benefit from this singular, uniquely American, comparative advantage.

I support responsible measures to reduce or eliminate the budget deficit. That is why I support the coalition alternative. This alternative balances the budget while investing in our Nation's future. It dedicates $50 billion more to education programs and maintains our commitment to student financial aid. The coalition budget reconciliation package does not give tax breaks that will only serve to cut current discretionary spending.

History has shown that we can balance the budget while making the investments in our Nation's future that can help to diminish our debt. Given that record, I believe we are doing ourselves a great disservice by limiting access to higher education by making these cuts. We cannot afford to waste any of the talent that is America's most powerful national resource.

I urge my colleagues to vote for the coalition alternative.

I urge my colleagues to vote against the Republican bill.

Mr. KASICH. I yield the balance of our time, 5½ minutes, to the gentleman from Texas [Mr. ARMEY], the majority leader.

Mr. ARMEY. Mr. Chairman, I thank the gentleman from Ohio [Mr. KASICH], my good friend, for yielding me this time.

My colleagues, historians will have already no choice but to recognize this first session of the 104th Congress as among the hardest-working sessions ever of any Congress at any time. I am sure all of my colleagues will agree with that proposition.

If I could take a moment, Mr. Chairman, I would like to give my regards, my personal recognition of appreciation to all the Members of this Congress on both sides of the aisle, both those with whom I found myself in disagreement most of the time, and those with whom I found myself in agreement. The fact is we worked hard. Now we are at a point in our legislative agenda where it is time to collect our work together and to validate that work and move it forward. This work that we have before us today, this budget reconciliation bill, represents big change.

America has asked of Congress that we make a big change. We pledged to make a big change, and today is the day we can stand and deliver and keep our promise. Big change is unnerving. Those of us who are committed to making it are haunted by a fear that maybe the American people will not understand, and, quite frankly, I must say those who resist our efforts are haunted by the fear that maybe America will understand. But we must put aside our fears regarding the understanding of the American people and recognize that they do understand.

We are not here today asking America to be with us, to be on our side. We are here today prepared to make a vote that says to America, we are on your side. We are ready to give you the change you demand.

For 60 years the Ship of State, this great land, has been sailed consistently in the wrong direction, to the left, in the direction of big government, big taxation, big regulation and a lack of regard and respect for the American people's ability and integrity. With this vote today, we will crank this ship around. We will turn this ship around to the right, and we will sail it in the direction of freedom, integrity, recognition, in the direction of a government that has the ability to know the goodness of the American people and the decency to respect it. That is what this change is all about.

We must look at the direction in which we have sailed and recognize that we have left in our wake a sea of despair, a sea of frustration, and a sea of dependence, in fact a nation that is not fulfilling its great promises and its great dreams.

So now is the time to make the vote. Now is the time to step up to the challenge of those who elected us and those we represent, the people back home, the good people back home, people who work hard, people who care hard, people who share hard, and, yes, unhappily because of the failures of big government, people back home who despair hard for its failures, and in that, today we are putting together a package, and we will pass a package that promises, first, tax relief to those who work hard, that says to these American people, ''We believe you should keep more of the money you earn and make the decisions regarding your family at home instead of ship that money away to Washington where people who do not know you will make mistakes on your behalf.''

We have also here the first year's mark to that all-important balanced budget in 7 years. We do that for people who care hard, care hard for the future of their children, and there to say enough, we cannot saddle them with more debt. Then, as we save Medicare for another generation, we again act on behalf of those who share hard and who care hard and do so out of respect for and concern for the medical future of their parents.

This is a serious business.

Finally, on behalf of those who today must only despair hard, we have welfare reform. We dare to change a system that has failed, not because we believe people have abused that system but because we know that system has abused people and made them victims.

This is the vote we must take. In doing that, we must put aside our concerns, our fears, our parochial interests. We must think about America, and we must first reject the politics of fear and the politics of class warfare, and we must vote for the two great promises of America. America is a nation that promises each individual an equality of opportunity, and it is pledged to the all-important, critical guarantee that we will always work to secure the blessings of liberty for ourselves and our posterity, and our posterity is our children.

So I call on my colleagues, step up today, stand and deliver. Vote for this budget reconciliation package brought forward by the gentleman from Ohio [Mr. KASICH] and the Committee on the Budget and all of our hard work, reject this substitute, reject a motion to recommit. Vote for the future of our children so that they shall know our heritage and live it in their own lives.

Mr. DICKS. Mr. Chairman, today Congress faces a decision of great significance, where our actions will affect so thoroughly the lives of our fellow Americans. I urge my colleagues to indicate their most serious consideration of the plight of seniors, children, workers, and the less privileged, by lending their support to the Democratic substitute and rejecting the GOP package.

Both sides of the aisle have been able to agree on a number of important policy issues, and I commend the leadership of both sides for their willingness to address these important points. We have agreed that the Federal deficit must be eliminated. Both sides agree that

there should be a 7-year time period through which to accomplish this. Members agree that the short and long term problems with Medicare and Medicaid must be resolved by this legislation. The House has also been able to agree that the welfare system must be improved to encourage recipients to re-enter the workforce and become positive, contributing members of society.

Unfortunately, the agreement ends here. The Republican budget reconciliation proposal severely cuts many critical Federal programs unnecessarily—for the single purpose of providing a tax cut worth over $245 billion during the next 7 years, much of which will go directly to individuals who make over $100,000 a year. At the same time, the Republican plan will cut the Earned Income Tax Credit, which provides critical tax relief to the poorest American workers. Frankly, I am unable to find the logic of a proposal which cuts taxes for the wealthy while raising taxes on the working people of the United States. I do not believe that this is the message the House should be sending to the American people.

This $245 billion tax cut for wealthy Americans also will force draconian cuts to be made across the board to programs which provide critical services and assistance upon which many Americans rely. The Republican plan brutally attacks seniors by cutting Medicare and Medicaid by a combined $482 billion. The measure requires seniors and low income individuals to pay greater premiums. It also will reduce payments to hospitals which will force many of these facilities to reduce services or, in some cases, shut down entirely. The Republican proposal will make further cuts to veterans' health programs, increasing their copayments by 50 percent and increasing the fees veterans must pay to stay in a VA hospital or nursing home. Federal retirees will also be hit by delays in their COLA payments and other changes adding up to a cut of $9.9 billion. Is it right to demand that seniors, veterans, and Federal employees pay more while the most wealthy pay less?

This proposal also calls for major reductions to Federal programs supporting our children. Student loans, the most important vehicle through which middle and lower class children are able to attend college, will be cut by over $10 billion. The Federal direct loan program, which has been highly successful at my alma mater, the University of Washington, is eliminated by the Republican bill. Students receiving loans also will be charged an additional $3.8 billion over the next 7 years by eliminating the interest-free grace period, increasing the cost of student loans by as much as $2,500 per student. Is it truly in our Nation's best interest to provide $255 billion to the richest Americans by raising taxes on students?

The Republican bill also contains a number of policy decisions which are, simply put, bad ideas. This measure would eliminate established Federal standards nursing homes must meet to receive Medicaid funds. These requirements ensure that our parents and grandparents receive adequate care, are served by competent staff, and retain the rights that they deserve. This measure also permits corporations to raid their workers' pension funds for any purpose—including hostile takeovers—thus putting the retirement funds of working Americans at significant risk.

Mr. Chairman, if all of these changes were truly necessary to balance the budget by 2002, perhaps more of us on the Democratic side of the aisle would be willing to support the Republican proposal. However, the Coalition has developed a plan which accomplishes all of the important goals without this terrible assault on the middle and lower class. How can the coalition's plan do this? Simply, by eliminating the huge tax cut which our Nation cannot afford.

The Democratic plan will accomplish deficit reduction while maintaining crucial investments in education and human resources. Our plan will restore the solvency of the Medicare trust fund while cutting health care services by $195 billion less than the GOP plan. It also provides for other important services such as annual mammograms which the GOP proposal chooses not to include. This plan rejects the Republican tax increase on the working poor, encouraging people to choose work over welfare. Our substitute also confirms Congress's dedication to providing our children with a quality education and maintaining their access to institutions of higher learning by providing $50 billion more for education than the Republican plan and fully funding Federal student loan programs. Retired Federal employees will not be required to accept again delayed COLA payments under the Democratic substitute. Neither will nursing home residents be asked to compromise their personal safety nor must worker risk the security of their retirement funds.

I ask my friends on both sides of the aisle to consider carefully the decision they are about to make. Ask yourselves, should the effort to balance the Federal budget be a divisive affair—where the rich win and the poor lose; where corporations profit while workers and retirees are asked to pay more? Or should this action require all Americans to bear the burden of deficit reduction equally, with fairness and the common need being our guide? I urge my colleagues to reject the further splitting of the wealthy and middle class in this country and to support the balanced approach inherent in the Democratic substitute.

Mr. SKAGGS. Mr. Chairman, We have two choices today.

The Democratic alternative—the Orton substitute—would balance the budget in 7 years, without tax cuts we can't now afford, without undue cuts in Medicare and Medicaid, without raising taxes on lower-income workers, and while making possible investments we need to keep our country strong in the future. I support it.

This is in sharp contrast to the Republican bill, which I oppose. That bill would also balance the budget in 7 years, but there the similarity ends. It includes a tax cut we cannot afford, most of which goes to the wealthy who least need it. To pay for that tax cut, the committee bill cuts Medicare and Medicaid more than necessary, with over half of the total spending cuts coming from those important programs. It also actually raises taxes on lower-income workers.

Compared to the Republican bill, the Orton substitute cuts $100 billion less in Medicare, $100 billion less in Medicaid, $50 billion less in direct assistance to individuals, $10 billion less in education, $10 billion less in agriculture, and $80 billion less in other discretionary spending.

How is that possible? It is made possible by refusing to dig the hole of Federal debt deeper—that is, by refusing to cut taxes before we can afford to. And by ending $28 billion worth of particularly ill-advised subsidies to corporations.

The Democratic alternative reduces the deficit more, and quicker, than the majority's bill. It cuts a total of $853 billion from the budget over the next 7 years, compared to $811 billion in the Republican bill.

While making these deep cuts, our alternative reflects better priorities and wiser policies than majority's bill.

It maintains the earned-income tax credit, which used to enjoy strong bipartisan support as an effective, non-bureaucratic way to enable lower-income people to work their way into the middle class.

It closes tax loopholes that let multinational corporations manipulate their books to avoid paying their fair share of U.S. taxes and that allow billionaires to avoid paying their taxes by renouncing their citizenship.

It protects Medicare and Medicaid, because it is not driven to cut them deeper than necessary because it does not have to pay for a misguided tax cut.

It would provide more resources for nutrition, education, transportation, research, and crime control.

It includes real welfare reforms, with flexibility for States, a crack-down on fraud, and enough funding for day-care, training, and the other needs of people moving off welfare and into jobs.

It maintains funding for student loans, which the Republican bill would cut.

It protects the benefits of Federal retirees and preserves veterans' compensation.

It keeps our public lands in public ownership—unlike the Republican plan, which offers to turn national forest ski mountains over to the owners of ski resorts. The Republican leadership refused to let me offer an amendment to strip that provision from their bill.

The Democratic alternative would not sacrifice the wilderness and wildlife of America's last untouched stretch of Arctic coastline, the coastal plain of the Arctic National Wildlife Refuge, which the majority's bill would open to oil and gas development.

Our alternative would not perpetuate bargain-basement sales of the gold, silver, and other hardrock mineral resources of our public lands.

And it does not include the myriad provisions tucked into the majority leadership's plan, including ones that have little or nothing to do with balancing the budget and everything to do with political posturing and campaigns. Like a requirement to waste even more money on TV Marti, which no one in Cuba sees anyway, by switching to a signal that even fewer Cuban televisions can receive—and which will be even easier for Castro to jam!

And like provisions to eliminate the arms control and disarmament agency.

It's clear to me which of these two choices is better for the country. The Republican plan may be called a reconciliation bill, but I can't

be reconciled into thinking that it's anything but bad for the country. We have a chance to do better—in fact, we have a duty to do better. The Democratic alternative is that better choice.

Mr. RICHARDSON. Mr. Chairman, I rise in support of the Stenholm reconciliation bill that balances the budget in 7 years without the draconian cuts found in the Republican plan.

The Stenholm alternative balances the budget without cuts in education, without extreme cuts to Medicare and Medicaid, and without increasing taxes on the middle class and the working poor.

The Stenholm alternative places deficit reduction first and does not borrow money to pay for tax cuts.

The Stenholm alternative spreads the sacrifice necessary to balance the budget among various areas of the budget. The Republican plan places a heavy burden on middle-class, hard-working Americans while giving a tax cut for the rich.

The Stenholm alternative reforms the welfare program by rewarding work that pays more than welfare.

Mr. Speaker, the Stenholm alternative has been praised by the Washington Post as a ''respectable, disciplined alternative'' that is ''easily the best horse in the race.''

The bottom line is the Stenholm alternative balances the budget without punishing the middle class and the poor. This is the bill that the American people have been asking for.

The President deserves credit for his 1993 budget which has brought the fiscal year 1995 deficit to $164 billion, almost half of what it was when he took office.

Despite forecasts of doom in 1993, our economy continues to grow at a strong, steady pace.

The Stenholm alternative will signal to the markets that we are serious about implementing sound fiscal policy in Washington. The lower interest rates that will result from this budget will allow businesses to expand at a lower cost, it will allow millions of Americans to refinance their loans on homes, cars, and credit cards, it will hasten the retirement of past debts that depress the savings rate of this country.

The Republican budget threatens to shock the economy with enormous tax cuts that could jeopardize the effects of the difficult spending cuts that we have already made.

The Stenholm alternative is prudent and makes difficult choices that we are sent here to make.

I urge my colleagues to balance the budget the smart way, and to support the Stenholm alternative.

Mr. HAYES. Mr. Chairman, when we vote today on this reconciliation bill, we are passing judgement on hundreds of pages of text containing thousands of specific numbers and provisions. As important as those details are—and they are very important—perhaps more crucial are the underlying values embodied in the proposals before us. In the final analysis, people sent me here to recognize, protect, and advance the basic values America holds dear. A group of conservative Democrats called the coalition have a reconciliation bill that best accomplishes that objective.

The values implicit in the Democratic leadership's refusal to submit a balanced budget are unacceptable. At the same time, I believe that the Republican leadership bill goes too far in too many areas and does not adequately enough protect some of our most vulnerable citizens.

The coalition's budget strikes the right balance. It reflects the common sense and common values held by most Americans. All of us should strongly support it.

The coalition budget reaches balance in 7 years with a steady glidepath of deficit reduction. Value interpretation: Our children and grandchildren should be given as much economic opportunity as we were, not forced to pay for our irresponsibility.

The coalition budget requires tough spending cuts before tax rewards. Value interpretation: Rewards should come after hard work, not before.

The coalition budget makes reforms in Medicare to achieve $170 billion in savings—compared to the Republicans $270 billion and the Democratic leadership's $90 billion—to keep the program solvent well into the next decade. Value interpretation: Keep promises you've made, to both today's and tomorrow's seniors.

The coalition budget finds a numeric middle ground in Medicaid, saving $85 billion from the program for lower-income citizens. Value interpretation: Runaway costs must be reigned in, but not at the expense of the most vulnerable.

The coalition budget includes a proposal to significantly reform our welfare system. Value interpretation: Balance the compassion imperative just mentioned with a sense of personal responsibility, moving people from welfare to the work force while including adequate funds for child care, job training, and other building blocks necessary to make a welfare reform policy more than a pot full of empty promises.

The coalition budgets maintains support for student loans and agriculture. Value interpretation: Treasure, nurture, and develop your national resources if you want to remain strong and healthy.

Finally, the coalition budget includes the only meaningful budget enforcement to be found in this debate. Value interpretation: If you expect people to believe what you say, you ought to police yourself in ways that show you mean it.

During the debate on the balanced budget amendment, I stood in this very well and stressed that our obligation as public servants and to the Framers of the Constitution is to ensure that the Federal Government live within its means. Prudence and fairness dictate that we get down to the business of cutting the deficit as soon as possible and not postpone the major portion of the burden until the out years. The coalition substitute would leave our children with $159 billion less debt than H.R. 2491, my Republican colleagues' bill. That is what this debate is about—ensuring a sound financial future for our children and grandchildren—not rhetorical comments about partisan politics or Presidential elections.

I remind my colleagues that my voting record speaks volumes about my philosophy on tax cuts. I supported the Contract With America tax cut package and voted against the President's 1993 tax increases. Increasing the amount of income that my constituents retain has always been one of my, and should be one of our, top priorities. Taxes should, however, only be cut when the hard work of balancing the budget is completed. I believe that the final budget agreement will likely contain a reduced tax cut. The groundwork to do is also in place as indicated by comments of the Speaker and the President.

The coalition proposal represents the views of the majority of Americans and our best opportunity for compromise. Americans want their Federal Government to manage its fiscal affairs with the same responsibility that they are forced to in private life. Americans want the Federal Government to respect their privacy and personal freedoms. Americans want the Federal Government to trust their abilities to make decisions.

But, Americans also expect the Federal Government to carry out its responsibility to protect the general welfare. The coalition substitute does so by being fairer to rural communities, senior citizens, farmers, children, and the American family. Our proposal also balances the budget in seven years. I believe that such a combination achieves a commonsense balance that is essential to guarantee that our long-term and short-term economic future is not jeopardized, and I urge its adoption.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Utah [Mr. ORTON].

The question was taken; and the Chairman announced that the noes to have it.

RECORDED VOTE

Mr. ORTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 72, noes 356, answered ''present'' 1, not voting 3, as follows:

[Roll No. 741]

AYES—72

Andrews	Flake	Payne (VA)
Baesler	Furse	Peterson (FL)
Baldacci	Geren	Peterson (MN)
Barcia	Hall (OH)	Pomeroy
Barrett (WI)	Hall (TX)	Poshard
Beilenson	Hamilton	Richardson
Bentsen	Harman	Roemer
Bishop	Hayes	Sabo
Blute	Hoyer	Sawyer
Brewster	Klug	Schroeder
Browder	Lincoln	Scott
Brown (CA)	Luther	Skaggs
Cardin	Martinez	Skelton
Chapman	Matsui	Spratt
Clayton	McCarthy	Stenholm
Condit	McHale	Tanner
Cramer	Meehan	Taylor (MS)
de la Garza	Minge	Thornton
Dicks	Montgomery	Torres
Dingell	Moran	Vento
Dooley	Morella	Visclosky
Duncan	Murtha	Volkmer
Eshoo	Ortiz	Ward
Fazio	Orton	Wilson

NOES—356

Abercrombie	Bilbray	Buyer
Ackerman	Bilirakis	Callahan
Allard	Bliley	Calvert
Archer	Boehlert	Camp
Armey	Boehner	Canady
Bachus	Bonilla	Castle
Baker (CA)	Bonior	Chabot
Baker (LA)	Bono	Chambliss
Ballenger	Borski	Chenoweth
Barr	Boucher	Christensen
Barrett (NE)	Brown (FL)	Chrysler
Bartlett	Brown (OH)	Clay
Barton	Brownback	Clement
Bass	Bryant (TN)	Clinger
Bateman	Bryant (TX)	Clyburn
Becerra	Bunn	Coble
Bereuter	Bunning	Coburn
Berman	Burr	Coleman
Bevill	Burton	Collins (GA)

Collins (IL)
Collins (MI)
Combest
Conyers
Cooley
Costello
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dixon
Doggett
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Maloney
Manton
Manzullo
Markey
Martini
Mascara
McCollum
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Moorhead
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Pelosi
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stark
Stearns
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Upton
Velazquez
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED ''PRESENT''—1

Kaptur

NOT VOTING—3

Sisisky Tucker Weldon (PA)

Mrs. CUBIN and Messrs. ALLARD, BACHUS, HEFLEY, MCINTOSH, and OBERSTAR has changed their vote from ''aye'' to ''no''.

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DREIER) having assumed the Chair, Mr. BOEHNER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, pursuant to House Resolution 245, he reported the bill, as amended pursuant to that rule, back to the House.

The SPEAKER pro tempore (Mr. DREIER). Under the rule, the previous question is ordered and the amendment is adopted.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEPHARDT. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEPHARDT moves to recommit the bill H.R. 2491 to the Committee on Budget with instructions to report the same back to the House with modifications to preserve and protect the health and income security of our seniors and our children and to achieve fairness by denying revenue reductions favoring the rich and excluding revenue increases on working class families and to retain Section 5003 relating to federal retirement provisions for Members of Congress and Congressional employees.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, let me say, a few moments ago the majority leader, my friend, the gentleman from Texas [Mr. ARMEY] said that for 60 years we have been steering to the left and that now we should vote for a big change and begin to steer to the right. With all respect to my friend, I believe we should not be trying to steer left or right but we ought to steer together forward, to move this great country forward to meet the central challenges of our time.

What is that? The fact is that America in the last 20 years has fallen to sixth in the world in standard of living. The fact is that real wages for the middle class in this country have been declining for over 20 years, the steepest decline since 1820. The fact is that American families are working longer, taking second jobs and part-time jobs, having spouses in the work force who did not have to work 20 years ago. And at the end of all that work, at the end of the month and at the end of the year, they have less money to spend than they had 20 years ago.

The fact is that in the boom years of the 1980's, two-thirds of all the new wealth went to the top 1 percent, while most Americans, the bottom 80 percent, saw their income decline in real terms. So that the disparity between the people at the top and the rest of America has grown larger and wider than it has been in decades.

Mr. Speaker, we have two problems. We have two challenges. How do we get the pie to grow again in this country so we can talk about everybody having a larger share of a larger pie; and how, along with that, we can decrease the disparity in income so that there is less room between the middle class and the people trying to get in the middle class and the people at the top. Mr. Speaker, I suggest to my colleagues that the budget we are talking about today does not move us in the right direction on either of those challenges.

Let me talk about disparity of income for a moment. This budget we are about to vote on decreases the earned income credit for families struggling to get in the middle class. In other words, it increases taxes on people that are struggling to get in the middle class, people earning $25,000 and $30,000 a year. And in the same budget we have a tax cut, a massive tax cut for people at the top. It takes my breath away. I cannot believe that someone seriously, in 1995, at the same time could make those two suggestions simultaneously. It is wrong. It is morally wrong. It is economically wrong. It is the wrong thing for our country.

Second, the budget does not address how we make the pie grow again. One of our former colleagues from this side of the aisle, Jack Kemp, is an eloquent voice for saying that we will never get rid of the deficit simply by cutting. We have to also grow our way to balance in the budget. I do not agree with a lot of the things that Jack Kemp, our former colleague, prescribed, but I think he was right, we have to grow our way.

Are we going to grow our way out of this deficit if we are cutting student loans, which is the one way people in the middle class have a chance to do better and to advance their young people? Do we make the pie grow if we are cutting Medicare and Medicaid, which, in the case of Medicaid, is the one way that youngsters, two of five youngsters in the country today are on Medicaid. Are they going to have a healthy life,

will they be able to produce and be productive citizens in our society if we are cutting the very way that they can do that?

Agriculture. we have had a partnership in agriculture in this country for as long as any body can remember, programs to help farming families be able to succeed and provide the food and fiber that this society needs, which has been part of the secret of having a large and growing middle class. Most countries spend more for food and fiber than we do, yet this bill takes away those agricultural programs.

Finally, Mr. Speaker, let me say that I think this budget, more than anything that we have dealt with, presents a very clear and different vision between these two parties. This budget really presents a different vision for America.

A very prominent Member in the other body said yesterday, ''I was there fighting the fight voting against Medicare because we knew it would not work in 1965.'' My party, the Democratic party, fought for and enacted Medicare in 1965.

□ 1600

We believe that Medicare has helped the American people probably more than anything we as a people have ever done.

Mr. Speaker, I believe the rhetoric we heard yesterday is really the real debate that we ought to be having. If extremes in the Republican party really do want to get rid of Medicare and to change it so dramatically that it is emasculated, then let us have that debate. Let us be proud to bring that difference to the American people.

If the extremes in the Republican party really believe that the right thing to do is to raise taxes on the middle-class and lower taxes dramatically on the wealthiest people in this country, then let us have that debate between now and 1996.

Mr. Speaker, I say to the ladies and gentlemen of the House in conclusion, this budget and these next 14 or 15 months are about real differences and a difference in vision of where this country should go. Let the American people decide and I believe they will decide for Medicare and for the middle-class of this country, not the wealthiest of this country.

Mr. KASICH. Mr. Chairman, I rise in opposition to the motion to recommit.

Mr. Speaker, this is a great Republican, and frankly we are going to have some Democrats, team effort today to try to meet the challenge. It is a team effort.

But, Mr. Speaker, if I could just for a second lodge a personal note, I started offering budgets in 1989 with my good friend, the gentleman from Connecticut [Mr. SHAYS] and the support of the gentleman from Texas [Mr. STENHOLM]. When we did it, we took on the Republican President of the United States and the Republican chairman of the Committee on the Budget.

Mr. Speaker, the reason we did it is because we were committed to a basic principle that regardless of who was in power, regardless of who was in charge, we just had to like tell it like it was.

We started arguing back in 1989 that we needed to make some hard decisions and, frankly, we discovered this: If we would just slow the growth in Federal spending, if we would just put the Federal budget on a slight diet, we could save the next generation.

It was not partisan. All over this town, if my colleagues read all the scholarly writings and listen to all the analysts and listen to politicians of both parties and listen to the presidential candidates for the last 20, 30 years, frankly they will hear the same thing: We cannot let this continue to go on; we have got to make some hard choices, because if we do not, our inability to make choices and put the country first will destroy us.

This is not a matter of conservative or liberal or Democrat or Republican. This is a matter of using good common sense, like every American family does. We need to establish priorities. We need to shrink the size and the scope of the influence of the Federal Government. And if, in fact, we put America first, we can get it done.

This is what all the political commentators have been saying. Do my colleagues want to know something? It has been tough to take on the sacred cows. The folks that have criticized our program should come over here and listen. It is not easy.

In order to take on the sacred cows, in order to deal with the entitlement programs in this country, we have had to walk across some very hot coals, have we not colleagues on both sides of the aisle? We have had to.

But we have had the courage to do it, and we promised that this day would come. We said that we would finally, once and for all, end the smoke and mirrors, end the gimmicks, stop delaying and balance the Federal budget.

Mr. Speaker, they said it could not be done. Here we have before us today the Seven Year Balanced Budget Resolution certified by the Congressional Budget Office that we, in fact, have met our goal and the people of this country should understand that in seven years we will, in fact, balance the Federal budget and save this country and save the next generation. Why did we do it? Why did we do it? Why did we do it and how did it happen?

Mr. Speaker, I just ask my colleagues to just think about this a little bit. First of all, it took courage. Some of my colleagues know what it is like to go home and have to take the heat when people do not understand all the programs and what we are doing.

Mr. Speaker, I am proud of these people. I am proud to serve with them. Why? It is courage. It is the courage to be willing to put an election on the line; do the right thing.

But the other thing we are missing is why it is being done. We hear about polls. I am going to tell my colleagues about the poll I take. I started taking it in 1989, and I really took it in 1993, and I really took it this year, because I have to listen, I know I talk a lot, but I have to listen to my colleagues. Mr. Speaker, when they come back from home, know that they are listening to? The people.

Tip O'Neill talked about the beauty of the House being the House the people run. It is true. We get their message later rather than sooner, but in the final analysis, the people rule in this House. And when Members come back when they came back from the August recess and when they came back from the last holiday, what were they were hearing at home?'' ''Don't stop. No smoke and mirrors. No gimmicks. Put the country first. We want you to do it. Save our children.'' That is what they heard and that is why the program is advancing.

Mr. Speaker, a little about the program. Every time I put these charts up we get a thousand calls to the office asking for charts. Mr. Speaker, let me tell my colleagues about the program. It is unbelievable what we are doing. We are going from $9.5 trillion in spending over the last 7 years to $12.1 trillion.

Some in this House want to grow to $13.3 trillion. I respect them for that, but we are not talking about going down; we are talking about going up. The debate is not about a $3 trillion increase in spending; it is whether we can restrain ourselves for that last trillion dollars; whether we can meet the challenge on that last trillion dollars to slow the growth of this government so that we, in fact, can balance our budget.

Medicaid. Medicaid is going from 443 to 785. All over America, that is an increase. We are going to give the States flexibility. Know what? We added a little back to Medicaid today. Why? Because we will be big enough to say, if it is too thin, we are going to come in and we are going to help. We will be big enough to say it. I asked my colleagues on the other side the last time to work with us. We will keep working with them.

Medicare, $926 billion to $1.6 trillion increase over the next 7 years. How about the per beneficiary? The per beneficiary is going to go from 4,800 bucks to 6,700 bucks. The average person in the private sector who is not a senior citizen is getting 1,900. We are doing a good job by our senior citizens. We are giving them a heck of a lot more and they need it and they are going to get it. We are going to save the program from bankruptcy.

One other thing, Mr. Speaker, we are going to stop generational transfer that begins to rob the next generation that is about to go to work.

Welfare, 492 to 838. Any way we want to count it, if the Cleveland Indians could have a 492 to 838, we would be winning the World Series tonight. That

is an increase. That is more. If Cleveland had 838 and Atlanta had 492, we would be bringing out the champagne in Cleveland tonight. The fact is, we are doing better by this program. Bottom line though, again, $9.5 trillion to $12.2 trillion.

Tax cuts. Two schools of thought on tax cuts. Mr. Speaker, to growth advocates I would say, want to know something? Your President, our President, my President is going to sign a reduction in the capital gains tax. I will tell my colleagues why. Because intellectuals, and people who simply get up and go to work every day, know we have got to provide an incentive for risk-taking, because that creates jobs. We will have a lower capital gains tax at the end of this process, because it is for creating jobs.

Number 2, the social advocates, and they are not mutually exclusive, number 2, people who are concerned about the American family, they want to give the family some back. So, we close the Commerce Department down and save $8 billion. We are going to give some of the money back to the people who supported that bureaucracy all these years. It makes sense.

Mr. Speaker, the results at the end of the day? Do not listen to these think tanks. Let us not even listen to us. Let us listen to the Chairman of the Federal Reserve. Do my colleagues know what he said? In simple terms: If we can balance the budget, we will do two things. We will destroy the fear in the hearts and minds of mothers and fathers that their children will not have a better America than what they had, we will eliminate that if we can balance the budget; and, secondly, we will unleash a prosperity that we cannot even chart in America.

It is about growth; it is about the future; it is about the family; it is about the next generation; about doing the commonsense things that we all believe in and our constituents believe in.

Finally, Mr. Speaker, we have a process called reconciliation.

The SPEAKER pro tempore (Mr. DREIER). The Chair wishes to observe that the gentleman from Missouri [Mr. GEPHARDT] was recognized for the time that he consumed, which was beyond the 5 minutes. We are extending the same courtesy to the gentleman from Ohio [Mr. KASICH], chairman of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, let me finish by saying the word ''reconciliation'' never made any sense to me. I thought about it this morning. If there is anything this country needs, it is reconciliation. If there is anything this House needs over the longhaul, it is reconciliation.

Mr. Speaker, I was in the gym with the gentleman from California [Mr. MILLER] the other night and I said, ''GEORGE, you were doing a lot of things when you were in power that I thought were not so hot, but I liked you anyway, GEORGE.'' I said, ''Now we are in power and we are doing some things that you do not like. The challenge for you is can you still like us?'' Do my colleagues know what the gentleman from California said? ''Yes, we can.''

Mr. Speaker, at the end of the day, and the gentleman from Minnesota [Mr. SABO] reminds me of this every day, at the end of the day, in the fourth quarter, we have to have reconciliation with ourselves, with the other body, with the administration.

Mr. Speaker, I will promise my colleagues that one of the leaders on this side or this side will ever ask Members to sell out their principles. They cannot do it. What I can tell Members is if we can talk, if we can communicate, if we can listen, if we can understand one another, nothing but good can come from it. Frankly, if we can have reconciliation in this House as part of the leadership of this country, that will spread to the kind of reconciliation we need in this Nation.

Republicans and Democrats, let us lay this plan down. Let us pass it. Let us save the next generation, and let us begin saving America.

(By unanimous consent, Mr. WALKER was allowed to speak out of order for 1 minute.)

WELCOME TO MR. WELDON OF PENNSYLVANIA UPON HIS RETURN TO THE HOUSE FLOOR

Mr. WALKER. Mr. Speaker, I make this announcement simply to ask the House to welcome back our colleague, the gentleman from Pennsylvania [Mr. WELDON], who has had open heart surgery just last week and, in fact, is here for this historic vote.

The SPEAKER pro tempore. (Mr. DRIER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. GEPHARDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 180, nays 250, as follows:

[Roll No. 742]

YEAS—180

Abercrombie	Clayton	Engel
Ackerman	Clement	Eshoo
Andrews	Clyburn	Evans
Baldacci	Coleman	Farr
Barcia	Collins (IL)	Fattah
Barrett (WI)	Collins (MI)	Fazio
Becerra	Conyers	Fields (LA)
Beilenson	Costello	Filner
Bentsen	Coyne	Flake
Berman	Danner	Foglietta
Bevill	de la Garza	Ford
Bishop	DeFazio	Frank (MA)
Bonior	DeLauro	Frost
Borski	Dellums	Furse
Boucher	Deutsch	Gejdenson
Browder	Dicks	Gephardt
Brown (CA)	Dingell	Gibbons
Brown (FL)	Dixon	Gonzalez
Brown (OH)	Doggett	Gordon
Bryant (TX)	Dooley	Green
Cardin	Doyle	Gutierrez
Chapman	Durbin	Hall (OH)
Clay	Edwards	Hamilton
Harman	McHale	Sabo
Hastings (FL)	McKinney	Sanders
Hefner	McNulty	Sawyer
Hilliard	Meehan	Schroeder
Hinchey	Meek	Schumer
Holden	Menendez	Scott
Hoyer	Mfume	Serrano
Jackson-Lee	Miller (CA)	Skaggs
Jacobs	Minge	Slaughter
Jefferson	Mink	Spratt
Johnson (SD)	Moakley	Stark
Johnson, E. B.	Mollohan	Stokes
Johnston	Moran	Studds
Kanjorski	Murtha	Stupak
Kaptur	Nadler	Tejeda
Kennedy (MA)	Neal	Thompson
Kennedy (RI)	Oberstar	Thornton
Kennelly	Obey	Thurman
Kildee	Olver	Torres
Kleczka	Ortiz	Torricelli
Klink	Owens	Towns
LaFalce	Pallone	Traficant
Lantos	Pastor	Velazquez
Levin	Payne (NJ)	Vento
Lewis (GA)	Pelosi	Visclosky
Lipinski	Peterson (FL)	Volkmer
Lofgren	Pomeroy	Ward
Lowey	Poshard	Waters
Luther	Rahall	Watt (NC)
Maloney	Rangel	Waxman
Manton	Reed	Williams
Markey	Richardson	Wilson
Martinez	Rivers	Wise
Mascara	Roemer	Woolsey
Matsui	Rose	Wyden
McCarthy	Roybal-Allard	Wynn
McDermott	Rush	Yates

NAYS—250

Allard	Doolittle	Johnson (CT)
Archer	Dornan	Johnson, Sam
Armey	Dreier	Jones
Bachus	Duncan	Kasich
Baesler	Dunn	Kelly
Baker (CA)	Ehlers	Kim
Baker (LA)	Ehrlich	King
Ballenger	Emerson	Kingston
Barr	English	Klug
Barrett (NE)	Ensign	Knollenberg
Bartlett	Everett	Kolbe
Barton	Ewing	LaHood
Bass	Fawell	Largent
Bateman	Fields (TX)	Latham
Bereuter	Flanagan	LaTourette
Bilbray	Foley	Laughlin
Bilirakis	Forbes	Lazio
Bliley	Fowler	Leach
Blute	Fox	Lewis (CA)
Boehlert	Franks (CT)	Lewis (KY)
Boehner	Franks (NJ)	Lightfoot
Bonilla	Frelinghuysen	Lincoln
Bono	Frisa	Linder
Brewster	Funderburk	Livingston
Brownback	Gallegly	LoBiondo
Bryant (TN)	Ganske	Longley
Bunn	Gekas	Lucas
Bunning	Geren	Manzullo
Burr	Gilchrest	Martini
Burton	Gillmor	McCollum
Buyer	Gilman	McCrery
Callahan	Goodlatte	McDade
Calvert	Goodling	McHugh
Camp	Goss	McInnis
Canady	Graham	McIntosh
Castle	Greenwood	McKeon
Chabot	Gunderson	Metcalf
Chambliss	Gutknecht	Meyers
Chenoweth	Hall (TX)	Mica
Christensen	Hancock	Miller (FL)
Chrysler	Hansen	Molinari
Clinger	Hastert	Montgomery
Coble	Hastings (WA)	Moorhead
Coburn	Hayes	Morella
Collins (GA)	Hayworth	Myers
Combest	Hefley	Myrick
Condit	Heineman	Nethercutt
Cooley	Herger	Neumann
Cox	Hilleary	Ney
Cramer	Hobson	Norwood
Crane	Hoekstra	Nussle
Crapo	Hoke	Orton
Cremeans	Horn	Oxley
Cubin	Hostettler	Packard
Cunningham	Houghton	Parker
Davis	Hunter	Paxon
Deal	Hutchinson	Payne (VA)
DeLay	Hyde	Peterson (MN)
Diaz-Balart	Inglis	Petri
Dickey	Istook	Pickett

Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—2

Sisisky
Tucker

☐ 1832

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DREIER). The question is on the passage of the bill.

Pursuant to House Resolution 245, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas—227, nay 203, not voting 3, as follows:

[Roll No 743]

YEAS—227

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Largent
Latham
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—203

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
LaHood
Lantos
LaTourette
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Scarborough
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—3

Hilliard
Sisisky
Tucker

☐ 1849

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANKS of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REPORT ON H.R. 2546, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

Mr. WALSH, from the Committee on Appropriations, submitted a privileged report (Rept. No. 104–294) on the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said district for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. DREIER). All points of order are reserved on the bill.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight, October 26, 1995, to file a conference report on the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. BONIOR. Mr. Speaker, I take this time to inquire of the distinguished majority leader the schedule for next week.

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

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, on Monday, October 30, the House will meet at 12:30 p.m. for morning hour and 2