spirit and for that purpose, we introduce S. 5.

By Mr. SANTORUM (for himself and Mr. SMITH):

S. 6. A bill to amend title 18, United States Code, to ban partial-birth abortions; to the Committee on the Judiciary.

THE PARTIAL-BIRTH BAN ACT OF 1997

Mr. SANTORUM. Mr. President, the agenda for the 105th Congress reflects a continuance of the very significant debate that occurred in the 104th Congress on the issue of partial birth abortion.

Four months ago, we debated and considered a presidential veto override on a bill to ban the partial birth abortion procedure. On a final vote, we came very close to banning this very gruesome procedure, and the number of colleagues who supported the override set the stage for consideration again this year.

A wide spectrum of individuals have coalesced around the effort to ban partial birth abortions. These varied individuals and groups have raised their voices in support of a ban both because of the brutality of partial birth abortions and because they recognize that this debate is not about Roe vs. Wade, the 1973 Supreme Court decision legalizing abortion. It is not about when a fetus becomes a baby. And it is certainly not about women's health. It is about infanticide, it is about killing a child as he or she is being born, an issue that neither Roe vs. Wade nor the subsequent Doe vs. Bolton decision addressed.

During the Senate debate last year, various traditionally pro-choice legislators voted in support of legislation to ban this particular procedure. Among them was a colleague who stated on the floor of the Senate, ''In my legal judgement, the issue is not over a woman's right to choose within the constitutional context of Roe versus Wade. * * * The line of the law is drawn, in my legal judgement, when the child is partially out of the womb of the mother. It is no longer abortion; it is infanticide.'' He was joined in these sentiments by other like minded Senators.

This perspective is significant in that it suggests the scope of the tragedy that this procedure represents. And for those who may still be unclear what a partial birth abortion procedure is, it is this: a fully formed baby—in most cases a viable fetus of 23–26 weeks—is pulled from its mother until all but the head is delivered. Then, scissors are plunged into the base of the skull, a tube is inserted and the child's brains are suctioned out so that the head of the now-dead infant collapses and is delivered.

Partial birth abortion is tragic for the infant who loses his or her life in this brutal procedure. It is also a personal tragedy for the families who choose the procedure, as it is for those who perform it—even if they aren't aware of it. But partial birth abortion is also a profound social tragedy. It rips through the moral cohesion of our public life. It cuts into our most deeply held beliefs about the importance of protecting and cherishing vulnerable human life. It fractures our sense that the laws of our country should reflect long-held, commonly accepted moral norms.

Yet this kind of tragedy—even as it calls forth and exposes our outrage—can be an unexpected catalyst for consensus, for new coalitions and configurations in our public life. The partial birth abortion debate moves us beyond the traditional lines of confrontation to hollow out a place in the public square where disparate individuals and groups can come together and draw a line that they know should not be crossed.

The stark tragedy of partial birth abortion can be the beginning of a significant public discussion where we define—or re-define—our first principles. Why is such a discussion important? Precisely because it throws into relief the fundamental truths around which a moral consensus is formed in this country. And, as John Courtney Murray reminds us in ''We Hold These Truths, Catholic Reflections on the American Proposition'', a public consensus which finds its expression in the law should be ''an ensemble of substantive truths, a structure of basic knowledge, an order of elementary affirmations* * *''.

If we do not have fundamental agreement about first principles, we simply cannot engage one another in civil debate. All we have is the confusion of different factions locked in their own moral universe. If we could agree publicly on just this one point—that partial birth abortion is not something our laws should sanction, and if we could then reveal the consensus—a consensus that I know exists—against killing an almost-born infant, we would have significantly advanced the discussion about what moral status and dignity we give to life in all its stages. Public agreement, codified by law, on this one prohibition gives us a common point of departure. It give us a common language even, because we agree, albeit in a narrow sense, on the meaning of fundamental terms such as life and death. And it is with this common point of departure and discourse—however narrow—that we gain a degree of coherence and unity in our public life and dialogue.

I truly believe that out of the horror and tragedy of partial birth abortions, we can find points of agreement across ideological, political and religious lines which enable us to work toward a life-sustaining culture. So, as hundreds of thousands of faithful and steadfast citizens come together to participate in this year's March for Life, let us remember that such a culture, the culture for which we hope and pray daily, might very well be achieved one argument at a time.

Mr. President, I am proud to have the opportunity to sponsor this legislation and to continue the very significant achievements of my colleague, Senator BOB SMITH. I look forward to continuing that effort in cooperation with Representative CHARLES CANADY, and I thank my colleagues for making this initiative a priority in our legislative agenda.

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

S. 6

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 ''Partial-Birth Abortion Ban Act of 1997''.

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

''CHAPTER 74—PARTIAL BIRTH ABORTIONS

''Sec.

''1531. Partial-birth abortions prohibited.

''§ 1531. Partial-birth abortions prohibited

''(a) Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus or infant shall be fined under this title or imprisoned not more than two years, or both.

''(b) Subsection (a) does not apply to a partial-birth abortion that is necessary to save the life of a mother because her life is endangered by a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, if no other medical procedure would suffice for that purpose.

''(c) As used in this section—

''(1) the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the infant and completing the delivery; and

''(2) the terms 'fetus' and 'infant' are interchangeable.

''(d)(1) Unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion, the father, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus or infant, may in a civil action obtain appropriate relief.

''(2) Such relief shall include—

''(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

''(B) statutory damages equal to three times the cost of the partial-birth abortion; even if the mother consented to the performance of an abortion.

''(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section for a conspiracy to violate this section, or an offense under section 2, 3, or 4 of this title based on a violation of this section.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

''75. Partial-birth abortions ..... 1531''.

Mr. ABRAHAM. Mr. President, I rise today to cosponsor S. 6. In doing so I add my voice to the chorus calling for

an end to partial birth abortion. The bill we are considering is designed to outlaw medical procedures ''in which the person performing the abortion partially delivers a living fetus before killing the fetus and completing the delivery.'' It is a narrowly drafted bill which specifically and effectively targets a rare but grisly and unnecessary practice.

I understand, Mr. President, that the American people are divided on many issues within the abortion debate. I am firmly pro-life. But in my view one need not resort to broad, ideological arguments in this case. Partial birth abortions occur only in the third trimester of pregnancy. They are never required to save the life, health, or child-bearing ability of the mother. They are unnecessary and regrettable.

We in this chamber failed to override the President's veto of this legislation during the last Congress. But I remain convinced that all of us can agree that this Nation can do without this particular, rare, and grisly procedure. I urge my colleagues to support this legislation.

By Mr. LOTT (for himself, Mr. THURMOND, Mr. SMITH, Mr. WARNER, Mr. KYL, Mr. COCHRAN, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. INHOFE, Mr. MURKOWSKI, Mr. NICKLES, Mr. SESSIONS, and Mr. KEMPTHORNE):

S. 7. A bill to establish a U.S. policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

THE NATIONAL MISSILE DEFENSE ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 7

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 ''National Missile Defense Act of 1997''.

SEC. 2. NATIONAL MISSILE DEFENSE POLICY.

(a) NATIONAL MISSILE DEFENSE.—It is the policy of the United States to deploy by the end of 2003 a National Missile Defense system that—

(1) is capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate); and

(2) could be augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats if they emerge.

(b) COOPERATIVE TRANSITION.—It is the policy of the United States to seek a cooperative transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 3. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) REQUIREMENT FOR DEVELOPMENT OF SYSTEM.—To implement the policy established in section 3(a), the Secretary of Defense shall develop for deployment a National Missile Defense (NMD) system which shall achieve an initial operational capability (IOC) by the end of 2003.

(b) ELEMENTS OF THE NMD SYSTEM.—The system to be developed for deployment shall include the following elements:

(1) INTERCEPTORS.—An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).

(2) GROUND-BASED RADARS.—Fixed ground-based radars.

(3) SPACE-BASED SENSORS.—Space-based sensors, including the Space and Missile Tracking System.

(4) BM/C³.—Battle management, command, control, and communications (BM/C³).

SEC. 4. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall—

(1) upon the enactment of this Act, promptly initiate required preparatory and planning actions that are necessary so as to be capable of meeting the initial operational capability (IOC) date specified in section 3(a);

(2) not later than the end of fiscal year 1999, conduct an integrated systems test which uses elements (including BM/C³ elements) that are representative of, and traceable to, the national missile defense system architecture specified in section 3(b);

(3) prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing the system specified in section 3(a); and

(4) develop a national missile defense follow-on program that—

(A) leverages off of the national missile defense system specified in section 3(a); and

(B) could augment that system, if necessary, to provide for a layered defense.

SEC. 5. REPORT ON PLAN FOR NATIONAL MISSILE DEFENSE SYSTEM DEVELOPMENT AND DEPLOYMENT.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the Secretary's plan for development and deployment of a national missile defense system pursuant to this Act. The report shall include the following matters:

(1) The Secretary's plan for carrying out this Act, including—

(A) a detailed description of the system architecture selected for development under section 3(b); and

(B) a discussion of the justification for the selection of that particular architecture.

(2) The Secretary's estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1998 through 2003 in order to achieve the initial operational capability date specified in section 3(a).

(3) A determination of the point at which any activity that is required to be carried out under this Act would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the Secretary's determination, and an estimate of the time at which such point would be reached in order to meet the initial operational capability date specified in section 3(a).

SEC. 6. POLICY REGARDING THE ABM TREATY.

(a) ABM TREATY NEGOTIATIONS.—In light of the findings in section 232 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 102–106; 110 Stat. 228, 10 U.S.C. 2431 note) and the policy established in section 2, Congress urges the President to pursue, if necessary, high-level discussions with the Russian Federation to achieve an agreement to amend the ABM Treaty to allow deployment of the national missile defense system being developed for deployment under section 3.

(b) REQUIREMENT FOR SENATE ADVICE AND CONSENT.—If an agreement described in subsection (a) is achieved in discussions described in that subsection, the President shall present that agreement to the Senate for its advice and consent. No funds appropriated or otherwise available for any fiscal year may be obligated or expended to implement such an amendment to the ABM Treaty unless the amendment is made in the same manner as the manner by which a treaty is made.

(c) ACTION UPON FAILURE TO ACHIEVE NEGOTIATED CHANGES WITHIN ONE YEAR.—If an agreement described in subsection (a) is not achieved in discussions described in that subsection within one year after the date of the enactment of this Act, the President and Congress, in consultation with each other, shall consider exercising the option of withdrawing the United States from the ABM Treaty in accordance with the provisions of Article XV of that treaty.

SEC. 7. DEFINITIONS.

In this Act:

(1) ABM TREATY.—The term ''ABM Treaty'' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

(2) LIMITED BALLISTIC MISSILE ATTACK.—The term ''limited ballistic missile attack'' refers to a limited ballistic missile attack as that term is used in the National Ballistic Defense Capstone Requirements Document, dated August 24, 1996, that was issued by the United States Space Command and validated by the Joint Requirements Oversight Council of the Department of Defense.

Mr. HELMS. Mr. President, the Defend America Act of 1997 is a vital piece of legislation—one which provides a clear and concise blueprint for protecting the American people from the growing threat of attack from ballistic missiles carrying nuclear, chemical, or biological warheads.

It is critical that the United States begin immediately the 8-year task of building and deploying a national missile defense. I am grateful to the distinguished majority leader, Mr. LOTT, for introducing this bill and I am honored to join him as a cosponsor.

Just over a year ago the Clinton administration vetoed the 1996 Defense Authorization Act. In his veto message, the President explicitly objected to the missile defense provisions of the act. At that time, along with others, I found it beyond belief that the administration could arrive at the decision to block the deployment of a national missile defense. I remember wondering, given the fact that North Korea is known to be developing a missile capable of striking United States cities, how such a decision could be made.

The chairman of the National Intelligence Council, Richard Cooper, testified before the House National Security

Committee on February 28, 1996, that ''. . . North Korea is developing a missile, which we call the Taepo Dong 2, that could have a range sufficient to reach Alaska. The missile way also be capable of reaching some U.S. territories in the Pacific and the far western portion of the 2,000-km-long Hawaiian Island chain.''

What Mr. Cooper did not add was the fact that nations can and have increased the ranges of their ballistic missiles by reducing payloads.

Mr. President, a September 29, 1995, article in the Washington Times reported that the Defense Intelligence Agency has estimated that the Taepo Dong 2 could, in fact, have a range of 4,650 miles and, with a smaller warhead, could reach 6,200 miles—approximately 10,000 km. Similarly, a September 11, 1995, article in a South Korean newspaper stated that Russia believes that once the Taepo Dong 2's inertial navigation system, warhead weight, and fuel injection devices are improved, the missile could reach over 9,600 kilometers. At those ranges, the Taepo Dong 2 could drop a nuclear or biological warhead on U.S. cities as far east as Denver or Minneapolis.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

Second, I cannot fathom why the Clinton administration objected to the deployment of a national missile defense in light of Red China's bellicose words and deeds. China fields of dozens of submarine-launched ballistic missiles, hundreds of warheads on heavy bombers, roughly 24 medium- and long-range ballistic missiles, and has several crash modernization initiatives in progress. Moreover, China intends to deploy, by the end of the century, four new types of ballistic missiles. Furthermore, the United States has very clear indications that Red China is at this moment pursuing MIRV-technology.

Mr. President, this is the same country, mind you, that flexed its military might by conducting live missile-firing exercises in the Strait of Taiwan in an obviously intentional effort to bully and cower a valued and longstanding ally of the United States. This is the same country that issued thinly-veiled threats this spring suggesting that nuclear weapons would be used against the United States if the United States intervened on behalf of Taiwan. Assistant Secretary of State Winston Lord acknowledged that Chinese officials had declared that the United States ''wouldn't dare defend Taiwan because they—China—would rain nuclear bombs on Los Angeles.''

Now, if this was not nuclear blackmail, it will do while the Clinton administration folds its hands until the first nuclear missile hits the West Coast of the United States. China's ability to hold the United States hostage to such threats is made possible by the fact that a band of latter-day Luddites here in Washington have consistently refused even to consider building the very strategic missile defenses necessary to protect the American people from such an attack.

Mr. President, it is time for the defenders of the ABM Treaty to give up their pious devotion to an antiquated arms control theology, and to come to grips with the realities of the post-cold-war world. Dr. Henry Kissinger—the architect of the ABM Treaty—put it best when he recently wrote: ''The end of the cold war has made * * * a strategy [of mutually assured destruction (MAD)] largely irrelevant. Barely plausible when there was only one strategic opponent, the theory makes no sense in a multipolar world of proliferating nuclear powers.''

Dr. Kissinger went on to note specifically that MAD would not work against blackmail with nuclear weapons. Yet that is exactly what we faced when China blatantly threatened Los Angeles.

The truth of the matter is that no amount of policy reformulation by the Clinton administration can change the fact that the United States is vulnerable to nuclear-tipped missiles fielded by China, or any one else. Rectifying this dangerous deficiency requires leadership and action. It is an all the more pressing issue because the current course charted by the administration fails to recognize the inherent danger in China's pursuit of an advanced nuclear arsenal.

Mr. President, any further delay in the development of the United States of a flexible, cost-effective national missile defense is unconscionable. I am honored to be a cospsonor of the Defend America Act and urge Senators to support this legislation to ensure that the American people are protected from attack by ballistic missiles.

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

[From the Washington Times, Sept. 29, 1995]

NORTH KOREAN MISSILE COULD REACH UNITED STATES, INTELLIGENCE WARNS

(By Bill Gertz)

The Western United States could be within range of North Korea's longest-range missile armed with nuclear, chemical or biological warheads by the year 2000, according to U.S. and foreign intelligence assessments.

Sen. Jon Kyl, Arizona Republican, said new information indicates North Korea's Taepo Dong-2 missile, still under development, is an intercontinental ballistic missile (ICBM) capable of hitting U.S. cities and demonstrates the need for rapidly building a national missile defense.

A South Korean intelligence official, quoting a Russian assessment said the Taepo Dong-2 will be deployed by 2000 with a maximum range of 6,200 miles once warhead modifications and technical improvements are made, the newspaper Seoul Shinmun reported Sept. 11.

Mr. Kyl, a member of the Senate Intelligence Committee, said he investigated the report and found it ''not inconsistent with some information that I have.''

''The bottom line is that if the information is even close to the truth, it presents for the first time a very serious and relatively quick challenge to U.S. sovereignty,'' he said.

The Defense Intelligence Agency (DIA) estimates the Taepo Dong-2 will have a range of about 4,650 miles and confirmed that with a smaller warhead it could reach 6,200 miles, a Pentagon source said.

Information on the North Korean ICBM comes as a House and Senate conference committee is working on provisions of the fiscal 1996 defense authorization about whether the Pentagon should move ahead quickly with deployment of a national missile defense that could defend against such North Korean missiles.

''Given the time it takes to develop and deploy an effective national missile-defense system, overlayed on that intelligence information, it is clear we have to begin now if we are to avoid a 'missile-defense gap,'" Mr. Kyl said.

''In this case it would be real,'' he said, referring to the issue of the United States lagging behind the Soviet Union in strategic missiles. The missile-gap debate surfaced during the 1960 presidential election campaign and was later proved to have been unfounded.

Mr. Kyl said the intelligence report also counters claims by administration officials that national missile defenses are not needed because there is no immediate threat to the United States.

A DIA statement said the press information about the Taepo Dong–2 was ''factual. . . . Clearly the successful deployment of these longer-range missiles would present a new dimension to the challenges to United States and regional interests.''

One DIA computer simulation of the Taepo Dong-2 put the range of the missile at between 2,666 miles and 3,720 miles.

But according to South Korean intelligence, Russian missile experts believe the range of the Taepo Dong–2 could be extended to at least 6,000 miles after technical problems are solved, the Seoul newspaper reported.

The Russians told South Korea the greater range could be achieved if the guidance mechanism is improved, the warhead weight is decreased and fuel-injection technology is advanced.

The Pentagon's Ballistic Missile Defense Organization drew up charts showing the targets a long-range Taepo Dong–2 could hit. They include all major U.S. cities on the West Coast, in Arizona, Colorado, Kansas and just short of Chicago. It also could reach all the major European capitals.

A U.S. intelligence official said current North Korean missile technology is ''Scud technology'' with rudimentary guidance and control mechanisms.

''It will take a lot longer than the year 2000 to get to that point,'' he said of long-range missile capability. ''Although there is no question they would like to achieve that.''

But other intelligence officials said China is secretly helping the North Korean long-range missile project and a group of up to 200 North Korean missile engineers has undergone training in China.

As for the range of the Taepo Dong, the CIA report says only that its two versions will have ranges shorter and greater than 1,860 miles, respectively.

The accuracy of the missile is so poor that U.S. analysis see it as only useful for firing weapons of mass destruction—nuclear, chemical or biological warheads. The Pentagon says North Korea has covertly developed enough nuclear fuel for four or five nuclear devices. The CIA says it has aggressive chemical and biological warfare programs.

SOUTH KOREA

U.S. REPORTEDLY WITHIN NEW NORTH MISSILE RANGE

[Report by Pak Chae-pom]

[FBIS Translated Text] The new Taepodong missile No. 2 that North Korea is

developing is believed to have a maximum range of 10,000 km—which means that the U.S. mainland would be within its range—and will be ready for actual deployment around 2000.

According to an ROK intelligence official on 10 September, the assessment is based on a Russian-source intelligence on North Korea's ground-to-ground missiles.

The data Russia handed over to the ROK reveal that North Korea is continuing the research and development of Taepodong No. 1 and No. 2 at a missile test site in Sanumtong and that it recently conducted a missile engine test.

A computer simulated test by the U.S. Defense Intelligence Agency estimated that the Taepodong No. 2 has a 4,300 to 6,000-km range, but the Russian authorities projected that when some technical problems are solved, the range could be expanded to over 9,600 km.

The Russian source analyzed that the safety of the inertial navigation system, adjustment of the warhead weight, and fuel injection device are the technologies North Korea needs to improve.

North Korea's Taepodong No. 2 is reportedly a two-stage missile with a 16-meter Taepodong No. 1 attached on a 16.2-meter thruster and a 1,000-kg warhead on the thruster.

An intelligence official said: ''Irrespective of the recent economic setback, North Korea is speeding up the development of Taepodong No. 2 and other long-range weapons to block the support from the neighboring countries in case of an emergency on the Korean peninsula.''

By Mr. BOB SMITH (for himself, Mr. CHAFEE, and Mr. LOTT):

S. 8. A bill to reauthorize and amend the Comprehensive Environmental Response, Liability, and Compensation Act of 1980, and for other purposes; to the Committee on Environment and Public Works.

SUPERFUND CLEANUP ACCELERATION ACT OF 1997

Mr. CHAFEE. Mr. President, Senator SMITH from New Hampshire and I have been working on this not only this year, but in past years also. I think after 7 years, it is time to fix this program. Tens of billions of dollars have been spent with very modest results, as far as cleanups go. This bill, which Senator SMITH and I have submitted, addresses the so-called brownfields problem, for example.

What are brownfields? They are contaminated sites, usually within our cities, which can be cleaned up relatively quickly and inexpensively and can be returned to productive industrial commercial use, thereby generating jobs and revenue.

In this legislation, we deal with who will have to pay. Obviously, this is where the intense legal arguments have occurred, where you need to hire a hall because there are so many lawyers involved.

We eliminate the unfairness of joint and several liability at most sites, and we replace it with proportional allocations where each polluter pays its fair share.

We eliminate from liability anyone who legally sent waste to a municipal landfill.

We eliminate small businesses and persons whose share was less than 1 percent and persons who sent less than 200 pounds or 110 gallons.

In deciding how clean the cleanup ought to be, we take into consideration, what is the future use of the site going to be? Is it going to be for a children's playground, or is it going to be for a parking lot that is paved? Obviously, it makes a difference as to how clean the site should be cleaned up.

Mr. President, this bill is not written in concrete. Senator ABRAHAM, for example, is deeply concerned that we do not include here within our legislation tax incentives for brownfields cleanup in empowerment zones and in enterprise communities. Senator ABRAHAM, who is deeply concerned about our inner cities and the jobs that will flow from it if these sites within the inner cities are cleaned up, believes there should be some tax incentives provided. We have not done that because of a cost problem, but we have assured Senator ABRAHAM we will work with him to try to come up with the result that he seeks. I want to commend Senator ABRAHAM for the work that he has done on this and the intense concern he has shown throughout the process of formulating this legislation.

Mr. President, now I would like to turn it over to Senator SMITH who has labored so hard in this vineyard, not only this year but last year. I do not think anybody in this Senate knows more about this legislation or has worked harder on it than Senator SMITH from New Hampshire.

Mr. BOB SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. BOB SMITH. Thank you, Mr. President. I thank my distinguished colleague and chairman of the Environment and Public Works Committee for his kind remarks. He, too, has been deeply involved in this issue. We have spent a lot of hours on this.

I am just very excited about the fact that this is in the top 10 legislative initiatives that the majority leader and the Republican Party have, and I welcome the opportunity to make a few remarks here.

It is a tribute to Senator LOTT and to Senator CHAFEE that they have made this a priority. It is the right thing to do, Mr. President, because I share with the American people the belief that our children ought to be able to drink clean water and breathe clean air and live in safe homes so they do not have to worry about environmental pollution, most specifically not having to live next to the stigma of a so-called Superfund site that never gets cleaned up.

We have some very good environmental laws on the books in this country—the Clean Air Act, the Safe Drinking Water Act, and others—but there are a few that do not fit that category, that have failed. Superfund is one of those laws. It is up to this committee and to the Senate, I think, to take the leadership here and to try to make those corrections.

To achieve meaningful reform—and I mean reform—we have to cut transaction costs. That is goal No. 1. The second goal is to reduce the time necessary to complete cleanup at these sites. The third goal is to inject some common sense into our cleanup program to reach sensible levels that protect our children and our environment.

The bill we introduce today will accomplish each and every one of those goals. It improves the serious problem of brownfields, which our colleague, Senator CHAFEE, has already mentioned. Senator ABRAHAM of Michigan is very much involved in this issue. We commend his leadership and look forward to working with him on the brownfields portion of this bill.

But we provide $60 million in new funding each year for States and localities for grants and loan programs to spur the cleanup and the redevelopment of these sites.

I welcome the initiative on the part of our colleagues on the other side of our aisle on brownfields. It enhances the role of States by allowing them to take responsibility for conducting Superfund cleanups and increases citizen participation. It reinjects common sense back into the cleanup process by taking the future use of the site into consideration when cleanup remedies are elected.

It promotes the use of innovative technology to ensure that the citizenry can have the benefit of the most up-to-date scientific approaches to cleanup and eliminates potential liability for tens of thousands of average citizens, small businesses, schools, churches, the Boy Scouts, Girl Scouts, and others who have been caught up in this Superfund liability net. It caps the liability of municipalities and other entities that owned or operated municipal sites and did so legally.

Finally, it reduces litigation by creating a fair-share allocation process at multiparty sites where the trust fund will pick up the cost of the defunct or insolvent parties in wastes that cannot be attributed to a viable party.

Thus, Mr. President, what this bill does, in a nutshell, is it stops paying lawyers and starts paying for cleanup. I think that is a tremendous improvement over current law. So the discussions over the past 2 years, which Senator CHAFEE has mentioned, which I have been involved in with the administration, Administrator Browner, and my colleagues on the other side of the aisle, have been productive. We have learned a lot. We are ready to roll up our sleeves again and get it done. We were very close to an agreement last time. We look forward to working with our colleagues and with the President of the United States to get it done in a bipartisan way.

As the Chairman of the Senate Subcommittee on Superfund, Waste Control and Risk Assessment, I am here today, along with Senator CHAFEE, the Chairman of the Environment Committee, to introduce some commonsense

legislation to put the Superfund law back on track toward achieving its original goal of protecting our Nation's children from environmental pollutants in the quickest practical manner possible.

I would like to thank the Republican Leader, Senator LOTT and all of the members of the Republican Conference who have co-sponsored our legislation—The Superfund Cleanup Acceleration Act—for recognizing the importance of improving the Superfund program. By making this one of the ''top 10'' Senate priorities for the 105th Congress, I believe we have demonstrated our strong commitment toward protecting our environment, improving environmental laws, and preserving the health of our Nation's children.

Before I describe our legislation, I would like to take a few minutes to talk about Superfund and how we find ourselves here today.

The history of Superfund is long and somewhat checkered. The program was created in 1980 to clean up abandoned hazardous waste sites, and at that time, it was anticipated that this program would clean up around 400 sites nationwide. Begun with the best of intentions, the program has not performed the way it should. So far Superfund has cost our Nation more than $40 billion dollars, yet, only 125 out of a total of around 1,300 sites have been removed from the Superfund list over the last 16 years. Superfund has become the classic example of a Federal program awash in redtape, litigation and gold plated spending.

The problems in Superfund are many. First, the Superfund liability scheme allows the Environmental Protection Agency to hold any potentially responsible party liable for the entire cleanup cost at a site—irrespective of the type of contamination, when the material was disposed of, or whether the activity was legal. This is simply unfair and, not surprisingly, results in enormous litigation costs with 30 to 70 percent of every dollar spent on lawyers.

Because of the fear of Superfund liability, many of our Nation's inner cities contain abandoned or underutilized properties—dubbed Brownfields—which lay fallow because private developers and municipalities don't want to be dragged into Superfund's litigation quagmire. In order to spur economic redevelopment, we must place a priority on fixing this problem.

Superfund sets out unrealistic cleanup goals which frequently ignore common sense in considering the future use of the site. All too often, sites that are destined to become industrial parks or parking lots are required to be cleaned to standards compatible with school playgrounds. We need to reinject common sense back into this program so that we protect real people from real risks, not hypothetical people from hypothetical risks. We must also recognize that the States, which are much better able to understand the concerns and needs of residents who live near these sites, should have the lead in determining how these sites are going to be cleaned up, and when.

Because I am also the Chairman of the Armed Services Subcommittee on Strategic Forces, which funds the Department of Energy cleanup program, I am keenly aware that the real costs of Superfund are not limited solely to the private sector. Not only are there more than 155 Federal facilities on the Superfund list, but these sites represent the most complex and costly cleanup challenges in the program. The inability to create commonsense cleanup plans results in billions of dollars of additional liability to Federal agencies—costs that ultimately come from the taxes we all pay. In a period of budget deficits and declining resources, we need to do a better job of making cleanup decisions.

While Superfund was created with the hope of quickly dealing with the serious problem of toxic waste sites endangering our citizens, it is evident that Superfund has proceeded at a snail's pace and that most sites are still not cleaned up. I commend Carol Browner, the Administrator of the EPA, for recognizing this fact, and for instituting a series of administrative reforms in the last year—reforms that reflect changes that I, and other Republicans have advocated for many years.

Although I applaud the administration for making these changes, I believe it is too soon to declare victory in the effort to make Superfund work better. While improvements have been made in some areas, it is far too early to determine their true or lasting effect. I certainly do not agree with some in the Administration that feel that the administrative reforms have corrected all the problems of Superfund. The fact remains that even with the administrative reforms, too much money is spent on litigation, sites aren't being cleaned up fast enough, and children are being needlessly exposed to toxic contaminants.

Rather than reform Superfund on a piecemeal basis, as some may suggest, it is clear that comprehensive legislation is necessary to correct Superfund's deeper problems. The bill we have introduced will address those problems in a top-to-bottom fashion so that we can clean up all of these waste sites as quickly as possible.

To achieve meaningful Superfund reform, it is necessary to meet three goals. The first is to cut the transaction costs of the program. That means cutting out the lawyers and ensuring that every dollar meant for cleanup goes to cleanup. The second goal is to reduce the time necessary to complete cleanup at these sites. Currently, it takes more than 12 years to clean up a site. We can do better than that. The last goal is to inject common sense into our cleanup program to reach sensible levels that protect our children and protect the environment.

The bill we are introducing today will accomplish each of these goals.

Our legislation improves the serious problem of brownfields by providing $60 million in new funding each year to States and localities for grant and loan programs to spur the cleanup and redevelopment of these sites;

It enhances the roll of States by allowing them to take primary responsibility for conducting Superfund cleanups.

It increases citizen participation by setting up Citizen Response Organizations to improve coordination between citizens, government and responsible parties.

It reinjects common sense back into the cleanup process by taking the future use of the site into consideration when cleanup remedies are selected.

It promotes the use of innovative technologies to insure that the citizenry can have the benefit of the most-up-to-date scientific approaches to cleanup.

It eliminates potential liability from tens of thousands of average citizens, small businesses, schools, churches, and others who are currently caught in the Superfund liability net.

It caps the liability of municipalities and other entities that owned or operated municipal waste sites.

And finally, it reduces litigation by creating a fair-share allocation process at multi-party sites where the Trust fund will pick up the cost of defunct or insolvent parties, or wastes that cannot be attributed to a viable party.

Among the significant issues we have focused on is the issue of brownfields. As many of my colleagues may know, there are a variety of bills that have been introduced by Senator ABRAHAM, Senator LIEBERMAN, Senator LAUTENBERG and others which attempt to take a crack at this issue.

Many of the brownfield bills that have been introduced rely on tax credits or tax deductions to promote the cleanup of these sites. While the issue of tax credits does not fall within the jurisdiction of the Environment Committee, as this bill progresses toward passage, it is my intention to work with my colleagues to find common ground and provide additional support for these areas.

Liability has always been one of the most contentious issues in the Superfund reform debate. My position has been clear from the beginning. I believe that retroactive liability is fundamentally unfair and if I had my way, I would repeal it. Some of my colleagues see things differently. It is important to understand that the bill we are introducing represents many hours of intense discussions and all the parties involved will recognize some of their positions. The bill does not go as far as I would like. Equally, it asks that the other side to take a step forward as well. We each must take this step to improve a system which is not helping our citizens the way it should.

Over the last 2 years, my staff and that of Senator CHAFEE have been engaged in bi-partisian discussions with

Democrats and the Clinton administration. These discussions were long and sometimes pointed, but the participants in these negotiations understood that the Superfund program has flaws which need to be corrected.

While there is general agreement that cleanups should occur faster, and that there are too many lawyers in the system, there are many ideas about how to correct these problems. The discussions over the past 2 years have been productive and on many issues we are close to agreement. We look forward to working with our colleagues and the with the President to craft a bipartisan solution to the problems of Superfund.

The bill we introduce today incorporates many good ideas from our bipartisan negotiations. It represents a significant step away from where we started last Congress, and I believe it deserves, and will receive, bipartisan support.

Much has been said about the Republican and Democratic positions on the environment. I urge my colleagues to move beyond the rhetoric and the posturing of the last election and examine the real situation. The bill we are introducing today will speed cleanups, take lawyers out of the system, inject common sense back into the process, and protect children much faster from toxic exposure than under current law. This should not merely be a top-10 priority on the Republican agenda, but it should be a top ten item on our shared agenda. I urge all of my colleagues to join with us to reform this program this year.

I thank you, Mr. President. I thank my colleague.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to stress the comments that Senator SMITH made about a bipartisan approach.

As I mentioned before, this is legislation that we worked on. We believe it is very, very good legislation. We are not saying it is the end all and be all. Obviously, in our committee we will have hearings on it. All the members of the committee will have a chance to have their views expressed.

We look forward to contributions from the members of the Democratic Party who are part of our Environment Committee. It is our hope that when we come forward with a bill to present on this floor finally for consideration by the body, that it will come out unanimously from our committee, will have the support of the administration, and will fulfill the desires of all of us that this legislation become law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 8

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 ''Superfund Cleanup Acceleration Act of 1997.''

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

TITLE I—BROWNFIELDS REVITALIZATION

SEC. 101. BROWNFIELDS.

(a) IN GENERAL.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

''SEC. 127. BROWNFIELDS.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATIVE COST.—The term 'administrative cost' does not include the cost of—

''(A) investigation and identification of the extent of contamination;

''(B) design and performance of a response action; or

''(C) monitoring of natural resources.

''(2) BROWNFIELD FACILITY.—The term 'brownfield facility' means—

''(A) a parcel of land that contains an abandoned, idled, or underused commercial or industrial facility, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance; but

''(B) does not include—

''(i) a facility that is the subject of a removal or planned removal under title I;

''(ii) a facility that is listed or has been proposed for listing on the National Priorities List or that has been delisted under section 134(d)(5);

''(iii) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) at the time at which an application for a grant concerning the facility is submitted under this section;

''(iv) a land disposal unit with respect to which—

''(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

''(II) closure requirements have been specified in a closure plan or permit;

''(v) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under this Act, 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 Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(vi) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

''(vii) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) a general purpose unit of local government;

''(B) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

''(C) a regional council or group of general purpose units of local government;

''(D) a redevelopment agency that is chartered or otherwise sanctioned by a State; and

''(E) an Indian tribe.

''(b) BROWNFIELD CHARACTERIZATION GRANT PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants for the site characterization and assessment of brownfield facilities.

''(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

''(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make grants out of the Fund to the eligible entity to be used for the site characterization and assessment of 1 or more brownfield facilities or to capitalize a revolving loan fund.

''(B) APPROPRIATE INQUIRY.—A site characterization and assessment carried out with the use of a grant under subparagraph (A) shall be performed in accordance with section 101(35)(B).

''(3) MAXIMUM GRANT AMOUNT.—A grant under subparagraph (A) shall not exceed, with respect to any individual brownfield facility covered by the grant, $100,000 for any fiscal year or $200,000 in total.

''(c) BROWNFIELD REMEDIATION GRANT PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants to be used for capitalization of revolving loan funds for response actions (excluding site characterization and assessment) at brownfield facilities.

''(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

''(A) IN GENERAL.—On approval of an application made by a State or an eligible entity, the Administrator may make grants out of the Fund to the State or eligible entity to capitalize a revolving loan fund to be used for response actions (excluding site characterization and assessment) at 1 or more brownfield facilities.

''(B) APPROPRIATE INQUIRY.—A site characterization and assessment carried out with the use of a grant under subparagraph (A) shall be performed in accordance with section 101(35)(B).

''(3) MAXIMUM GRANT AMOUNT.—A grant under subparagraph (A) shall not exceed, with respect to any individual brownfield facility covered by the grant, $150,000 for any fiscal year or $300,000 in total.

''(d) GENERAL PROVISIONS.—

''(1) SUNSET.—No amount shall be available from the Fund for purposes of this section after the fifth fiscal year after the date of enactment of this section.

''(2) PROHIBITION.—No part of a grant under this section may be used for payment of penalties, fines, or administrative costs.

''(3) AUDITS.—The Inspector General of the Environmental Protection Agency shall audit an appropriate number of grants made under subsections (b)(2) and (c)(2) to ensure that funds are used for the purposes described in this section.

''(4) AGREEMENTS.—Each grant made under this section shall be subject to an agreement that—

''(A) requires the eligible entity to comply with all applicable State laws (including regulations);

''(B) requires that the eligible entity shall use the grant exclusively for purposes specified in subsection (b)(2) or (c)(2);

''(C) in the case of an application by a State under subsection (c)(2), payment by the State of a matching share of at least 50 percent of the costs of the response action for which the grant is made, from other sources of State funding; and

''(D) contains such other terms and conditions as the Administrator determines to be necessary to carry out the purposes of this section.

''(5) LEVERAGING.—An eligible entity that receives a grant under paragraph (1) may use the funds for part of a project at a brownfield facility for which funding is received from other sources, but the grant shall be used only for the purposes described in subsection (b)(2) or (c)(2).

''(e) GRANT APPLICATIONS.—

''(1) IN GENERAL.—Any eligible entity may submit an application to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a grant under this section for 1 or more brownfield facilities.

''(2) APPLICATION REQUIREMENTS.—An application for a grant under this section shall include—

''(A) an identification of each brownfield facility for which the grant is sought and a description of the redevelopment plan for the area or areas in which the brownfield facilities are located, including a description of the nature and extent of any known or suspected environmental contamination within the area;

''(B) an analysis that demonstrates the potential of the grant to stimulate economic development on completion of the planned response action, including a projection of the number of jobs expected to be created at each facility after remediation and redevelopment and, to the extent feasible, a description of the type and skill level of the jobs and a projection of the increases in revenues accruing to Federal, State, and local governments from the jobs; and

''(C) information relevant to the ranking criteria stated in paragraph (4).

''(3) APPROVAL.—

''(A) INITIAL GRANT.—On or about March 30 and September 30 of the first fiscal year following the date of enactment of this section, the Administrator shall make grants under this section to eligible entities that submit applications before those dates that the Administrator determines have the highest rankings under ranking criteria established under paragraph (4).

''(B) SUBSEQUENT GRANTS.—Beginning with the second fiscal year following the date of enactment of this section, the Administrator shall make an annual evaluation of each application received during the prior fiscal year and make grants under this section to eligible entities that submit applications during the prior year that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

''(4) RANKING CRITERIA.—The Administrator shall establish a system for ranking grant applications that includes the following criteria:

''(A) The extent to which a grant will stimulate the availability of other funds for environmental remediation and subsequent redevelopment of the area in which the brownfield facilities are located.

''(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

''(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

''(ii) The potential of a grant to create new or expand existing business and employment opportunities (particularly full-time employment opportunities) on completion of any necessary response action.

''(iii) The estimated additional tax revenues expected to be generated by economic redevelopment in the area in which a brownfield facility is located.

''(iv) The estimated extent to which a grant would facilitate the identification of or facilitate a reduction of health and environmental risks.

''(v) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and the proposed redevelopment is consistent with any applicable State or local community economic development plan.

''(vi) The extent to which the site characterization and assessment or response action and subsequent development of a brownfield facility involves the active participation and support of the local community.

''(vii) Such other factors as the Administrator considers appropriate to carry out the purposes of this section.''.

(b) FUNDING.—Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by adding at the end the following:

''(q) BROWNFIELD CHARACTERIZATION GRANT PROGRAM.—For each of fiscal years 1998 through 2002, not more than $15,000,000 of the amounts available in the Fund may be used to carry out section 127(b).

''(r) BROWNFIELD REMEDIATION GRANT PROGRAM.—For each of fiscal years 1998 through 2002, not more than $25,000,000 of the amounts available in the Fund may be used to carry out section 127(c).''.

SEC. 102. ASSISTANCE FOR QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

''(39) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—The term 'qualifying State voluntary response program' means a State program that includes the elements described in section 128(b).''.

(b) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 101(a)) is amended by adding at the end the following:

''SEC. 128. QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

''(a) ASSISTANCE TO STATES.—The Administrator shall provide technical and other assistance to States to establish and expand qualifying State voluntary response programs that include the elements listed in subsection (b).

''(b) ELEMENTS.—The elements of a qualifying State voluntary response program are the following:

''(1) Opportunities for technical assistance for voluntary response actions.

''(2) Adequate opportunities for public participation, including prior notice and opportunity for comment in appropriate circumstances, in selecting response actions.

''(3) Streamlined procedures to ensure expeditious voluntary response actions.

''(4) Oversight and enforcement authorities or other mechanisms that are adequate to ensure that—

''(A) voluntary response actions will protect human health and the environment and be conducted in accordance with applicable Federal and State law; and

''(B) if the person conducting the voluntary response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

''(5) Mechanisms for approval of a voluntary response action plan.

''(6) A requirement for certification or similar documentation from the State to the person conducting the voluntary response action indicating that the response is complete.

''(c) COMPLIANCE WITH ACT.—A person that conducts a voluntary response action under this section at a facility that is listed or proposed for listing on the National Priorities List shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121(a).''.

(c) FUNDING.—Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) (as amended by section 101(b)) is amended by adding at the end the following:

''(s) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—For each of fiscal years 1998 through 2002, not more than $25,000,000 of the amounts available in the Fund may be used for assistance to States to establish and administer qualifying State voluntary response programs, during the first 5 full fiscal years following the date of enactment of this subparagraph, distributed among each of the States that notifies the Administrator of the State's intent to establish a qualifying State voluntary response program and each of the States with a qualifying State voluntary response program. For each fiscal year there shall be available to each eligible entity a grant in the amount of at least $250,000.''.

SEC. 103. ENFORCEMENT IN CASES OF A RELEASE SUBJECT TO A STATE PLAN.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

''SEC. 129. ENFORCEMENT IN CASES OF A RELEASE SUBJECT TO A STATE PLAN.

''(a) IN GENERAL.—In the case of a facility at which there is a release or threatened release of a hazardous substance subject to a State remedial action plan or with respect to which the State has provided certification or similar documentation that response action has been completed under a State remedial action plan, neither the President nor any other person may use any authority under this Act to take an administrative or judicial enforcement action or to bring a private civil action against any person regarding any matter that is within the scope of the plan.

''(b) RELEASES NOT SUBJECT TO STATE PLANS.—For any facility at which there is a release or threatened release of hazardous substances that is not subject to a State remedial action plan, the President shall provide notice to the State within 48 hours after issuing an order under section 106(a) addressing a release or threatened release. Such an order shall cease to have force or effect on the date that is 90 days after issuance unless the State concurs in the continuation of the order.

''(c) COST OR DAMAGE RECOVERY ACTIONS.—Subsection (a) does not apply to an action brought by a State or Indian tribe for the recovery of costs or damages under section 107.''.

SEC. 104. CONTIGUOUS PROPERTIES.

(a) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)) is amended by adding at the end the following:

''(o) CONTIGUOUS PROPERTIES.—

''(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to real property on which there has been a release or threatened release of a hazardous substance and that is or may be contaminated by the release shall not be considered to be an owner or operator of a vessel or facility under subsection (a) (1) or (2) solely by reason of the contamination if—

''(A) the person did not cause, contribute, or consent to the release or threatened release; and

''(B) the person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.

''(2) COOPERATION, ASSISTANCE, AND ACCESS.—Notwithstanding paragraph (1), a person described in paragraph (1) shall provide full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

''(3) ASSURANCES.—The Administrator may—

''(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

''(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).''.

(b) CONFORMING AMENDMENT.—Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by striking ''of this section'' and inserting ''and the exemptions and limitations stated in this section''.

SEC. 105. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 102(a)) is amended by adding at the end the following:

''(40) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person that acquires ownership of a facility after the date of enactment of this paragraph, or a tenant of such a person, that establishes each of the following by a preponderance of the evidence:

''(A) DISPOSAL PRIOR TO ACQUISITION.—All active disposal of hazardous substances at the facility occurred before the person acquired the facility.

''(B) INQUIRIES.—

''(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility and the facility's real property in accordance with generally accepted good commercial and customary standards and practices.

''(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in paragraph (35)(B)(ii) or those issued or adopted by the Administrator under that paragraph shall be considered to satisfy the requirements of this subparagraph.

''(iii) RESIDENTIAL USE.—In the case of property for residential or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

''(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

''(D) CARE.—The person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

''(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

''(F) RELATIONSHIP.—The person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.''.

(b) AMENDMENT.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 104) is amended by adding at the end the following:

''(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

''(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

''(2) LIEN.—If there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of section 101(20)(G)(iii) and each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may obtain from appropriate responsible party a lien on any other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs.

''(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

''(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

''(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was initiated.

''(C) SALE.—A sale or other disposition of all or a portion of the facility has occurred.

''(4) AMOUNT.—A lien under paragraph (2)—

''(A) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

''(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

''(C) shall be subject to the requirements of subsection (l)(3); and

''(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.''.

SEC. 106. SAFE HARBOR INNOCENT LANDHOLDERS.

(a) AMENDMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended by striking subparagraph (B) and inserting the following:

''(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

''(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must show that, at or prior to the date on which the defendant acquired the facility, the defendant undertook all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.

''(ii) STANDARDS AND PRACTICES.—The Administrator shall by regulation establish as standards and practices for the purpose of clause (i)—

''(I) the American Society for Testing and Materials (ASTM) Standard E1527–94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'; or

''(II) alternative standards and practices under clause (iii).

''(iii) ALTERNATIVE STANDARDS AND PRACTICES.—

''(I) IN GENERAL.—The Administrator may by regulation issue alternative standards and practices or designate standards developed by other organizations than the American Society for Testing and Materials after conducting a study of commercial and industrial practices concerning the transfer of real property in the United States.

''(II) CONSIDERATIONS.—In issuing or designating alternative standards and practices under subclause (I), the Administrator shall consider including each of the following:

''(aa) The results of an inquiry by an environmental professional.

''(bb) Interviews with past and present owners, operators, and occupants of the facility and the facility's real property for the purpose of gathering information regarding the potential for contamination at the facility and the facility's real property.

''(cc) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records to determine previous uses and occupancies of the real property since the property was first developed.

''(dd) Searches for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or the facility's real property.

''(ee) Reviews of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility or the facility's real property.

''(ff) Visual inspections of the facility and facility's real property and of adjoining properties.

''(gg) Specialized knowledge or experience on the part of the defendant.

''(hh) The relationship of the purchase price to the value of the property if the property was uncontaminated.

''(ii) Commonly known or reasonably ascertainable information about the property.

''(jj) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

''(iv) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.''.

(b) STANDARDS AND PRACTICES.—

(1) ESTABLISHMENT BY REGULATION.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a) not later than 1 year after the date of enactment of this Act.

(2) INTERIM STANDARDS AND PRACTICES.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a)), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

TITLE II—STATE ROLE

SEC. 201. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

(a) IN GENERAL.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 103) is amended by adding at the end the following:

''SEC. 130. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

''(a) DEFINITIONS.—In this section:

''(1) COMPREHENSIVE DELEGATION STATE.—The term 'comprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform all of the categories of delegable authority.

''(2) DELEGABLE AUTHORITY.—The term 'delegable authority' means authority to perform (or ensure performance of) all of the authorities included in any 1 or more of the categories of authority:

''(A) CATEGORY A.—All authorities necessary to perform technical investigations, evaluations, and risk analyses, including—

''(i) a preliminary assessment or facility evaluation under section 104;

''(ii) facility characterization under section 104;

''(iii) a remedial investigation under section 104;

''(iv) a facility-specific risk evaluation under section 131;

''(v) enforcement authority related to the authorities described in clauses (i) through (iv); and

''(vi) any other authority identified by the Administrator under subsection (b).

''(B) CATEGORY B.—All authorities necessary to perform alternatives development and remedy selection, including—

''(i) a feasibility study under section 104; and

''(ii)(I) remedial action selection under section 121 (including issuance of a record of decision); or

''(II) remedial action planning under section 133(b)(5);

''(iii) enforcement authority related to the authorities described in clauses (i) and (ii); and

''(iv) any other authority identified by the Administrator under subsection (b).

''(C) CATEGORY C.—All authorities necessary to perform remedial design, including—

''(i) remedial design under section 121;

''(ii) enforcement authority related to the authority described in clause (i); and

''(iii) any other authority identified by the Administrator under subsection (b).

''(D) CATEGORY D.—All authorities necessary to perform remedial action and operation and maintenance, including—

''(i) a removal under section 104;

''(ii) a remedial action under section 104 or section 10 (a) or (b);

''(iii) operation and maintenance under section 104(c);

''(iv) enforcement authority related to the authorities described in clauses (i) through (iii); and

''(v) any other authority identified by the Administrator under subsection (b).

''(E) CATEGORY E.—All authorities necessary to perform information collection and allocation of liability, including—

''(i) information collection activity under section 104(e);

''(ii) allocation of liability under section 136;

''(iii) a search for potentially responsible parties under section 104 or 107;

''(iv) settlement under section 122;

''(v) enforcement authority related to the authorities described in clauses (i) through (iv); and

''(vi) any other authority identified by the Administrator under subsection (b).

''(3) DELEGATED STATE.—The term 'delegated State' means a State to which delegable authority has been delegated under subsection (c), except as may be provided in a delegation agreement in the case of a limited delegation of authority under subsection (c)(5).

''(4) DELEGATED AUTHORITY.—The term 'delegated authority' means a delegable authority that has been delegated to a delegated State under this section.

''(5) DELEGATED FACILITY.—The term 'delegated facility' means a non-federal listed facility with respect to which a delegable authority has been delegated to a State under this section.

''(6) ENFORCEMENT AUTHORITY.—The term ''enforcement authority'' means all authorities necessary to recover response costs, require potentially responsible parties to perform response actions, and otherwise compel implementation of a response action, including—

''(A) issuance of an order under section 106(a);

''(B) a response action cost recovery under section 107;

''(C) imposition of a civil penalty or award under section 109 (a)(1)(D) or (b)(4);

''(D) settlement under section 122; and

''(E) any other authority identified by the Administrator under subsection (b).

''(7) NONCOMPREHENSIVE DELEGATION STATE.—The term 'noncomprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform fewer than all of the categories of delegable authority.

''(8) NONDELEGABLE AUTHORITY.—The term 'nondelegable authority' means authority to—

''(A) make grants to community response organizations under section 117; and

''(B) conduct research and development activities under any provision of this Act.

''(9) NON-FEDERAL LISTED FACILITY.—The term 'non-federal listed facility' means a facility that—

''(A) is not owned or operated by a department, agency, or instrumentality of the United States in any branch of the Government; and

''(B) is listed on the National Priorities List.

''(b) IDENTIFICATION OF DELEGABLE AUTHORITIES.—

''(1) IN GENERAL.—The President shall by regulation identify all of the authorities of

the Administrator that shall be included in a delegation of any category of delegable authority described in subsection (a)(2).

''(2) LIMITATION.—The Administrator shall not identify a nondelegable authority for inclusion in a delegation of any category of delegable authority.

''(c) DELEGATION OF AUTHORITY.—

''(1) IN GENERAL.—Pursuant to an approved State application, the Administrator shall delegate authority to perform 1 or more delegable authorities with respect to 1 or more non-Federal listed facilities in the State.

''(2) APPLICATION.—An application under paragraph (1) shall—

''(A) identify each non-Federal listed facility for which delegation is requested;

''(B) identify each delegable authority that is requested to be delegated for each non-Federal listed facility for which delegation is requested; and

''(C) certify that the State, supported by such documentation as the State, in consultation with the Administrator, considers to be appropriate—

''(i) has statutory and regulatory authority (including appropriate enforcement authority) to perform the requested delegable authorities in a manner that is protective of human health and the environment;

''(ii) has resources in place to adequately administer and enforce the authorities;

''(iii) has procedures to ensure public notice and, as appropriate, opportunity for comment on remedial action plans, consistent with sections 117 and 133; and

''(iv) agrees to exercise its enforcement authorities to require that persons that are potentially liable under section 107(a), to the extent practicable, perform and pay for the response actions set forth in each category described in subsection (a)(2).

''(3) APPROVAL OF APPLICATION.—

''(A) IN GENERAL.—Not later than 60 days after receiving an application under paragraph (2) by a State that is authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), and not later than 120 days after receiving an application from a State that is not authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), unless the State agrees to a greater length of time for the Administrator to make a determination, the Administrator shall—

''(i) issue a notice of approval of the application (including approval or disapproval regarding any or all of the facilities with respect to which a delegation of authority is requested or with respect to any or all of the authorities that are requested to be delegated); or

''(ii) if the Administrator determines that the State does not have adequate legal authority, financial and personnel resources, organization, or expertise to administer and enforce any of the requested delegable authority, issue a notice of disapproval, including an explanation of the basis for the determination.

''(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of all or any portion of an application within the applicable time period under subparagraph (A), the application shall be deemed to have been granted.

''(C) RESUBMISSION OF APPLICATION.—

''(i) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

''(ii) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the applicable time period under subparagraph (A), the resubmitted application shall be deemed to have been granted.

''(D) NO ADDITIONAL TERMS OR CONDITIONS.—The Administrator shall not impose any term or condition on the approval of an application that meets the requirements stated in paragraph (2) (except that any technical deficiencies in the application be corrected).

''(E) JUDICIAL REVIEW.—The State (but no other person) shall be entitled to judicial review under section 113(b) of a disapproval of a resubmitted application.

''(4) DELEGATION AGREEMENT.—On approval of a delegation of authority under this section, the Administrator and the delegated State shall enter into a delegation agreement that identifies each category of delegable authority that is delegated with respect to each delegated facility.

''(5) LIMITED DELEGATION.—

''(A) IN GENERAL.—In the case of a State that does not meet the requirements of paragraph (2)(C) the Administrator may delegate to the State limited authority to perform, ensure the performance of, or supervise or otherwise participate in the performance of 1 or more delegable authorities, as appropriate in view of the extent to which the State has the required legal authority, financial and personnel resources, organization, and expertise.

''(B) SPECIAL PROVISIONS.—In the case of a limited delegation of authority to a State under subparagraph (A), the Administrator shall specify the extent to which the State shall be considered to be a delegated State for the purposes of this Act.

''(d) PERFORMANCE OF DELEGATED AUTHORITIES.—

''(1) IN GENERAL.—A delegated State shall have sole authority (except as provided in paragraph (6)(B), subsection (e)(4), and subsection (g)) to perform a delegated authority with respect to a delegated facility.

''(2) AGREEMENTS FOR PERFORMANCE OF DELEGATED AUTHORITIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a delegated State may enter into an agreement with a political subdivision of the State, an interstate body comprised of that State and another delegated State or States, or a combination of such subdivisions or interstate bodies, providing for the performance of any category of delegated authority with respect to a delegated facility in the State if the parties to the agreement agree in the agreement to undertake response actions that are consistent with this Act.

''(B) NO AGREEMENT WITH POTENTIALLY RESPONSIBLE PARTY.—A delegated State shall not enter into an agreement under subparagraph (A) with a political subdivision or interstate body that is, or includes as a component an entity that is, a potentially responsible party with respect to a delegated facility covered by the agreement.

''(C) CONTINUING RESPONSIBILITY.—A delegated State that enters into an agreement under subparagraph (A)—

''(i) shall exercise supervision over and approve the activities of the parties to the agreement; and

''(ii) shall remain responsible for ensuring performance of the delegated authority.

''(3) COMPLIANCE WITH ACT.—

''(A) NONCOMPREHENSIVE DELEGATION STATES.—A noncomprehensive delegation State shall implement each applicable provision of this Act (including regulations and guidance issued by the Administrator) so as to perform each delegated authority with respect to a delegated facility in the same manner as would the Administrator with respect to a facility that is not a delegated facility.

''(B) COMPREHENSIVE DELEGATION STATES.—

''(i) IN GENERAL.—A comprehensive delegation State shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121.

''(ii) COSTLIER REMEDIAL ACTION.—

''(I) IN GENERAL.—A delegated State may select a remedial action for a delegated facility that has a greater response cost (including operation and maintenance costs) than the response cost for a remedial action that would be selected by the Administrator under section 121, if the State pays for the difference in cost.

''(II) NO COST RECOVERY.—If a delegated State selects a more costly remedial action under subclause (I), the State shall not be entitled to seek cost recovery under this Act or any other Federal or State law from any other person for the difference in cost.

''(4) JUDICIAL REVIEW.—An order that is issued under section 106 by a delegated State with respect to a delegated facility shall be reviewable only in United States district court under section 113.

''(5) DELISTING OF NATIONAL PRIORITIES LIST FACILITIES.—

''(A) DELISTING.—After notice and an opportunity for public comment, a delegated State may remove from the National Priorities List all or part of a delegated facility—

''(i) if the State makes a finding that no further action is needed to be taken at the facility (or part of the facility) under any applicable law to protect human health and the environment consistent with section 121(a)(1) and (2);

''(ii) with the concurrence of the potentially responsible parties, if the State has an enforceable agreement to perform all required remedial action and operation and maintenance for the facility or if the cleanup will proceed at the facility under section 3004 (u) or (v) of the Solid Waste Disposal Act (42 U.S.C. 6924 (u), (v)); or

''(iii) if the State is a comprehensive delegation State with respect to the facility.

''(B) EFFECT OF DELISTING.—A delisting under subparagraph (A) (ii) or (iii) shall not affect—

''(i) the authority or responsibility of the State to complete remedial action and operation and maintenance;

''(ii) the eligibility of the State for funding under this Act;

''(iii) notwithstanding the limitation on section 104(c)(1), the authority of the Administrator to make expenditures from the Fund relating to the facility; or

''(iv) the enforceability of any consent order or decree relating to the facility.

''(C) NO RELISTING.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Administrator shall not relist on the National Priorities List a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A).

''(ii) CLEANUP NOT COMPLETED.—The Administrator may relist a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A) if cleanup is not completed in accordance with the enforceable agreement under subparagraph (A)(ii).

''(6) COST RECOVERY.—

''(A) RECOVERY BY A DELEGATED STATE.—Of the amount of any response costs recovered from a responsible party by a delegated State for a delegated facility under section 107—

''(i) 25 percent of the amount of any Federal response cost recovered with respect to

a facility, plus an amount equal to the amount of response costs incurred by the State with respect to the facility, may be retained by the State; and

''(ii) the remainder shall be deposited in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

''(B) RECOVERY BY THE ADMINISTRATOR.—

''(i) IN GENERAL.—The Administrator may take action under section 107 to recover response costs from a responsible party for a delegated facility if—

''(I) the delegated State notifies the Administrator in writing that the delegated State does not intend to pursue action for recovery of response costs under section 107 against the responsible party; or

''(II) the delegated State fails to take action to recover response costs within a reasonable time in light of applicable statutes of limitation.

''(ii) NOTICE.—If the Administrator proposes to commence an action for recovery of response costs under section 107, the Administrator shall give the State written notice and allow the State at least 90 days after receipt of the notice to commence the action.

''(iii) NO FURTHER ACTION.—If the Administrator takes action against a potentially responsible party under section 107 relating to a release from a delegated facility, the delegated State may not take any other action for recovery of response costs relating to that release under this Act or any other Federal or State law.

''(e) FEDERAL RESPONSIBILITIES AND AUTHORITIES.—

''(1) REVIEW USE OF FUNDS.—

''(A) IN GENERAL.—The Administrator shall review the certification submitted by the Governor under subsection (f)(8) not later than 120 days after the date of its submission.

''(B) FINDING OF USE OF FUNDS INCONSISTENT WITH THIS ACT.—If the Administrator finds that funds were used in a manner that is inconsistent with this Act, the Administrator shall notify the Governor in writing not later than 120 days after receiving the Governor's certification.

''(C) EXPLANATION.—not later than 30 days after receiving a notice under subparagraph (B), the Governor shall—

''(i) explain why the Administrator's finding is in error; or

''(ii) explain to the Administrator's satisfaction how any misapplication or misuse of funds will be corrected.

''(D) FAILURE TO EXPLAIN.—If the Governor fails to make an explanation under subparagraph (C) to the Administrator's satisfaction, the Administrator may request reimbursement of such amount of funds as the Administrator finds was misapplied or misused.

''(E) REPAYMENT OF FUNDS.—If the Administrator fails to obtain reimbursement from the State within a reasonable period of time, the Administrator may, after 30 days' notice to the State, bring a civil action in United States district court to recover from the delegated State any funds that were advanced for a purpose or were used for a purpose or in a manner that is inconsistent with this Act.

''(2) WITHDRAWAL OF DELEGATION OF AUTHORITY.—

''(A) DELEGATED STATES.—If at any time the Administrator finds that contrary to a certification made under subsection (c)(2), a delegated State—

''(i) lacks the required financial and personnel resources, organization, or expertise to administer and enforce the requested delegated authorities;

''(ii) does not have adequate legal authority to request and accept delegation; or

''(iii) is failing to materially carry out the State's delegated authorities,

the Administrator may withdraw a delegation of authority with respect to a delegated facility after providing notice and opportunity to correct deficiencies under subparagraph (D).

''(B) STATES WITH LIMITED DELEGATIONS OF AUTHORITY.—If the Administrator finds that a State to which a limited delegation of authority was made under subsection (c)(5) has materially breached the delegation agreement, the Administrator may withdraw the delegation after providing notice and opportunity to correct deficiencies under subparagraph (D).

''(C) NOTICE AND OPPORTUNITY TO CORRECT.—If the Administrator proposes to withdraw a delegation of authority for any or all delegated facilities, the Administrator shall give the State written notice and allow the State at least 90 days after the date of receipt of the notice to correct the deficiencies cited in the notice.

''(D) FAILURE TO CORRECT.—If the Administrator finds that the deficiencies have not been corrected within the time specified in a notice under subparagraph (C), the Administrator may withdraw delegation of authority after providing public notice and opportunity for comment.

''(E) JUDICIAL REVIEW.—A decision of the Administrator to withdraw a delegation of authority shall be subject to judicial review under section 113(b).

''(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Administrator under this Act to—

''(A) take a response action at a facility listed on the National Priorities List in a State to which a delegation of authority has not been made under this section or at a facility not included in a delegation of authority; or

''(B) perform a delegable authority with respect to a facility that is not included among the authorities delegated to a State with respect to the facility.

''(4) RETAINED AUTHORITY.—

''(A) NOTICE.—Before performing an emergency removal action under section 104 at a delegated facility, the Administrator shall notify the delegated States of the Administrator's intention to perform the removal.

''(B) STATE ACTION.—If, after receiving a notice under subparagraph (A), the delegated State notifies the Administrator within 48 hours that the State intends to take action to perform an emergency removal at the delegated facility, the Administrator shall not perform the emergency removal action unless the Administrator determines that the delegated State has failed to act within a reasonable period of time to perform the emergency removal.

''(C) IMMEDIATE AND SIGNIFICANT DANGER.—If the Administrator finds that an emergency at a delegated facility poses an immediate and significant danger to human health or the environment, the Administrator shall not be required to provide notice under subparagraph (A).

''(5) PROHIBITED ACTIONS.—Except as provided in subsections (d)(6)(B), (e)(4), and (g) or except with the concurrence of the delegated State, the President, the Administrator, and the Attorney General shall not take any action under section 104, 106, 107, 109, 121, or 122 in performance of a delegable authority that has been delegated to a State with respect to a delegated facility.

''(f) FUNDING.—

''(1) IN GENERAL.—The Administrator shall provide grants to or enter into contracts or cooperative agreements with delegated States to carry out this section.

''(2) NO CLAIM AGAINST FUND.—Notwithstanding any other law, funds to be granted under this subsection shall not constitute a claim against the Fund or the United States.

''(3) INSUFFICIENT FUNDS AVAILABLE.—If funds are unavailable in any fiscal year to satisfy all commitments made under this section by the Administrator, the Administrator shall have sole authority and discretion to establish priorities and to delay payments until funds are available.

''(4) DETERMINATION OF COSTS ON A FACILITY-SPECIFIC BASIS.—The Administrator shall—

''(A) determine—

''(i) the delegable authorities the costs of performing which it is practicable to determine on a facility-specific basis; and

''(ii) the delegable authorities the costs of performing which it is not practicable to determine on a facility-specific basis; and

''(B) publish a list describing the delegable authorities in each category.

''(5) FACILITY-SPECIFIC GRANTS.—The costs described in paragraph (4)(A)(ii) shall be funded as such costs arise with respect to each delegated facility.

''(6) NONFACILITY-SPECIFIC GRANTS.—

''(A) IN GENERAL.—The costs described in paragraph (4)(A)(ii) shall be funded through nonfacility-specific grants under this paragraph.

''(B) FORMULA.—The Administrator shall establish a formula under which funds available for nonfacility-specific grants shall be allocated among the delegated States, taking into consideration—

''(i) the cost of administering the delegated authority;

''(ii) the number of sites for which the State has been delegated authority;

''(iii) the types of activities for which the State has been delegated authority;

''(iv) the number of facilities within the State that are listed on the National Priorities List or are delegated facilities under section 130(d)(5);

''(v) the number of other high priority facilities within the State;

''(vi) the need for the development of the State program;

''(vii) the need for additional personnel;

''(viii) the amount of resources available through State programs for the cleanup of contaminated sites; and

''(ix) the benefit to human health and the environment of providing the funding.

''(7) PERMITTED USE OF GRANT FUNDS.—A delegated State may use grant funds, in accordance with this Act and the National Contingency Plan, to take any action or perform any duty necessary to implement the authority delegated to the State under this section.

''(8) COST SHARE.—

''(A) ASSURANCE.—A delegated State to which a grant is made under this subsection shall provide an assurance that the State will pay any amount required under section 104(c)(3).

''(B) PROHIBITED USE OF GRANT FUNDS.—A delegated State to which a grant is made under this subsection may not use grant funds to pay any amount required under section 104(c)(3).

''(9) CERTIFICATION OF USE OF FUNDS.—

''(A) IN GENERAL.—Not later than 1 year after the date on which a delegated State receives funds under this subsection, and annually thereafter, the Governor of the State shall submit to the Administrator—

''(i) a certification that the State has used the funds in accordance with the requirements of this Act and the National Contingency Plan; and

''(ii) information describing the manner in which the State used the funds.

''(B) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a regulation describing with particularity the information that a State shall be required to provide under subparagraph (A)(ii).

''(g) COOPERATIVE AGREEMENTS.—Nothing in this section shall affect the authority of the Administrator under section 104(d)(1) to enter into a cooperative agreement with a State, a political subdivision of a State, or an Indian tribe to carry out actions under section 104.''.

(b) STATE COST SHARE.—Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(1) by striking ''(c)(1) Unless'' and inserting the following:

''(c) MISCELLANEOUS LIMITATIONS AND REQUIREMENTS.—

''(1) CONTINUANCE OF OBLIGATIONS FROM FUND.—Unless'';

(2) by striking ''(2) The President'' and inserting the following:

''(2) CONSULTATION.—The President''; and

(3) by striking paragraph (3) and inserting the following:

''(3) STATE COST SHARE.—

''(A) IN GENERAL.—The Administrator shall not provide any remedial action under this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the Administrator providing assurances deemed adequate by the Administrator that the State will pay, in cash or through in-kind contributions, a specified percentage of the costs of the remedial action and operation and maintenance costs.

''(B) ACTIVITIES WITH RESPECT TO WHICH STATE COST SHARE IS REQUIRED.—No State cost share shall be required except for remedial actions under section 104.

''(C) SPECIFIED PERCENTAGE.—

''(i) IN GENERAL.—The specified percentage of costs that a State shall be required to share shall be the lower of 10 percent or the percentage determined under clause (ii).

''(ii) MAXIMUM IN ACCORDANCE WITH LAW PRIOR TO 1996 AMENDMENTS.—

''(I) On petition by a State, the Director of the Office of Management and Budget (referred to in this clause as the 'Director'), after providing public notice and opportunity for comment, shall establish a cost share percentage, which shall be uniform for all facilities in the State, at the percentage rate at which the total amount of anticipated payments by the State under the cost share for all facilities in the State for which a cost share is required most closely approximates the total amount of estimated cost share payments by the State for facilities that would have been required under cost share requirements that were applicable prior to the date of enactment of this subparagraph, adjusted to reflect the extent to which the State's ability to recover costs under this Act were reduced by reason of enactment of amendments to this Act by the Superfund Cleanup Acceleration Act of 1997.

''(II) The Director may adjust a State's cost share under this clause not more frequently than every 3 years.

''(D) INDIAN TRIBES.—In the case of remedial action to be taken on land or water held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian Tribe (if the land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph shall not apply.''.

(c) USES OF FUND.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended by inserting after paragraph (6) the following:

''(7) GRANTS TO DELEGATED STATES.—Making a grant to a delegated State under section 130(f).''.

(d) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Section 114(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(b)) is amended by striking ''removal'' each place it appears and inserting ''response''.

(2) CONFORMING AMENDMENT.—Section 101(37)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(37)(B)) is amended by striking ''section 114(c)'' and inserting ''section 114(b)''.

TITLE III—COMMUNITY PARTICIPATION

SEC. 301. COMMUNITY RESPONSE ORGANIZATIONS; TECHNICAL ASSISTANCE GRANTS; IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.

(a) AMENDMENT.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

''(e) COMMUNITY RESPONSE ORGANIZATIONS.—

''(1) ESTABLISHMENT.—The Administrator shall create a community response organization for a facility that is listed or proposed for listing on the National Priorities List—

''(A) if the Administrator determines that a representative public forum will be helpful in promoting direct, regular, and meaningful consultation among persons interested in remedial action at the facility; or

''(B) at the request of—

''(i) 50 individuals residing in, or at least 20 percent of the population of, the area in which the facility is located;

''(ii) a representative group of the potentially responsible parties; or

''(iii) any local governmental entity with jurisdiction over the facility.

''(2) RESPONSIBILITIES.—A community response organization shall—

''(A) solicit the views of the local community on various issues affecting the development and implementation of remedial actions at the facility;

''(B) serve as a conduit of information to and from the community to appropriate Federal, State, and local agencies and potentially responsible parties;

''(C) serve as a representative of the local community during the remedial action planning and implementation process; and

''(D) provide reasonable notice of and opportunities to participate in the meetings and other activities of the community response organization.

''(3) ACCESS TO DOCUMENTS.—The Administrator shall provide a community response organization access to documents in possession of the Federal Government regarding response actions at the facility that do not relate to liability and are not protected from disclosure as confidential business information.

''(4) COMMUNITY RESPONSE ORGANIZATION INPUT.—

''(A) CONSULTATION.—The Administrator (or if the remedial action plan is being prepared or implemented by a party other than the Administrator, the other party) shall—

''(i) consult with the community response organization in developing and implementing the remedial action plan; and

''(ii) keep the community response organization informed of progress in the development and implementation of the remedial action plan.

''(B) TIMELY SUBMISSION OF COMMENTS.—The community response organization shall provide its comments, information, and recommendations in a timely manner to the Administrator (and other party).

''(C) CONSENSUS.—The community response organization shall attempt to achieve consensus among its members before providing comments and recommendations to the Administrator (and other party), but if consensus cannot be reached, the community response organization shall report or allow presentation of divergent views.

''(5) TECHNICAL ASSISTANCE GRANTS.—

''(A) PREFERRED RECIPIENT.—If a community response organization exists for a facility, the community response organization shall be the preferred recipient of a technical assistance grant under subsection (f).

''(B) PRIOR AWARD.—If a technical assistance grant concerning a facility has been awarded prior to establishment of a community response organization—

''(i) the recipient of the grant shall coordinate its activities and share information and technical expertise with the community response organization; and

''(ii) 1 person representing the grant recipient shall serve on the community response organization.

''(6) MEMBERSHIP.—

''(A) NUMBER.—The Administrator shall select not less than 15 nor more than 20 persons to serve on a community response organization.

''(B) NOTICE.—Before selecting members of the community response organization, the Administrator shall provide a notice of intent to establish a community response organization to persons who reside in the local community.

''(C) REPRESENTED GROUPS.—The Administrator shall, to the extent practicable, appoint members to the community response organization from each of the following groups of persons:

''(i) Persons who reside or own residential property near the facility;

''(ii) Persons who, although they may not reside or own property near the facility, may be adversely affected by a release from the facility.

''(iii) Persons who are members of the local public health or medical community and are practicing in the community.

''(iv) Representatives of Indian tribes or Indian communities that reside or own property near the facility or that may be adversely affected by a release from the facility.

''(v) Local representatives of citizen, environmental, or public interest groups with members residing in the community.

''(vi) Representatives of local governments, such as city or county governments, or both, and any other governmental unit that regulates land use or land use planning in the vicinity of the facility.

''(vii) Members of the local business community.

''(D) PROPORTION.—Local residents shall comprise not less than 60 percent of the membership of a community response organization.

''(E) PAY.—Members of a community response organization shall serve without pay.

''(7) PARTICIPATION BY GOVERNMENT REPRESENTATIVES.—Representatives of the Administrator, the Administrator of the Agency for Toxic Substances and Disease Registry, other Federal agencies, and the State, as appropriate, shall participate in community response organization meetings to provide information and technical expertise, but shall not be members of the community response organization.

''(8) ADMINISTRATIVE SUPPORT.—The Administrator, to the extent practicable, shall provide administrative services and meeting

facilities for community response organizations.

''(9) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a community response organization.

''(f) TECHNICAL ASSISTANCE GRANTS.—

''(1) DEFINITIONS.—In this subsection:

''(A) AFFECTED CITIZEN GROUP.—The term 'affected citizen group' means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, pollutant, or contaminant at any facility on the State Registry or the National Priorities List.

''(B) TECHNICAL ASSISTANCE GRANT.—The term 'technical assistance grant' means a grant made under paragraph (2).

''(2) AUTHORITY.—

''(A) IN GENERAL.—In accordance with a regulation issued by the Administrator, the Administrator may make grants available to affected citizen groups.

''(B) AVAILABILITY OF APPLICATION PROCESS.—To ensure that the application process for a technical assistance grant is available to all affected citizen groups, the Administrator shall periodically review the process and, based on the review, implement appropriate changes to improve availability.

''(3) SPECIAL RULES.—

''(A) NO MATCHING CONTRIBUTION.—No matching contribution shall be required for a technical assistance grant.

''(B) AVAILABILITY IN ADVANCE.—The Administrator shall make all or a portion (but not less than $5,000 or 10 percent of the grant amount, whichever is greater) of the grant amount available to a grant recipient in advance of the total expenditures to be covered by the grant.

''(4) LIMIT PER FACILITY.—

''(A) 1 GRANT PER FACILITY.—Not more than 1 technical assistance grant may be made with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of response action.

''(B) DURATION.—The Administrator shall set a limit by regulation on the number of years for which a technical assistance grant may be made available based on the duration, type, and extent of response action at a facility.

''(5) AVAILABILITY FOR FACILITIES NOT YET LISTED.—Subject to paragraph (6), 1 or more technical assistance grants shall be made available to affected citizen groups in communities containing facilities on the State Registry as of the date on which the grant is awarded.

''(6) FUNDING LIMIT.—

''(A) PERCENTAGE OF TOTAL APPROPRIATIONS.—Not more than 2 percent of the funds made available to carry out this Act for a fiscal year may be used to make technical assistance grants.

''(B) ALLOCATION BETWEEN LISTED AND UNLISTED FACILITIES.—Not more than the portion of funds equal to ⅛ of the total amount of funds used to make technical assistance grants for a fiscal year may be used for technical assistance grants with respect to facilities not listed on the National Priorities List.

''(7) FUNDING AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of a technical assistance grant may not exceed $50,000 for a single grant recipient.

''(B) INCREASE.—The Administrator may increase the amount of a technical assistance grant, or renew a previous technical assistance grant, up to a total grant amount not exceeding $100,000, to reflect the complexity of the response action, the nature and extent of contamination at the facility, the level of facility activity, projected total needs as requested by the grant recipient, the size and diversity of the affected population, and the ability of the grant recipient to identify and raise funds from other non-Federal sources.

''(8) USE OF TECHNICAL ASSISTANCE GRANTS.—

''(A) PERMITTED USE.—A technical assistance grant may be used to obtain technical assistance in interpreting information with regard to—

''(i) the nature of the hazardous substances located at a facility;

''(ii) the work plan;

''(iii) the facility evaluation;

''(iv) a proposed remedial action plan, a remedial action plan, and a final remedial design for a facility;

''(v) response actions carried out at the facility; and

''(vi) operation and maintenance activities at the facility.

''(B) PROHIBITED USE.—A technical assistance grant may not be used for the purpose of collecting field sampling data.

''(9) GRANT GUIDELINES.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall develop and publish guidelines concerning the management of technical assistance grants by grant recipients.

''(B) HIRING OF EXPERTS.—A recipient of a technical assistance grant that hires technical experts and other experts shall act in accordance with the guidelines under subparagraph (A).

''(g) IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.—

''(1) IN GENERAL.—

''(A) MEETINGS AND NOTICE.—In order to provide an opportunity for meaningful public participation in every significant phase of response activities under this Act, the Administrator shall provide the opportunity for, and publish notice of, public meetings before or during performance of—

''(i) a facility evaluation, as appropriate;

''(ii) announcement of a proposed remedial action plan; and

''(iii) completion of a final remedial design.

''(B) INFORMATION.—A public meeting under subparagraph (A) shall be designed to obtain information from the community, and disseminate information to the community, with respect to a facility concerning the Administrator's facility activities and pending decisions.

''(2) PARTICIPANTS AND SUBJECT.—The Administrator shall provide reasonable notice of an opportunity for public participation in meetings in which—

''(A) the participants include Federal officials (or State officials, if the State is conducting response actions under a delegated or authorized program or through facility referral) with authority to make significant decisions affecting a response action, and other persons (unless all of such other persons are coregulators that are not potentially responsible parties or are government contractors); and

''(B) the subject of the meeting involves discussions directly affecting—

''(i) a legally enforceable work plan document, or any significant amendment to the document, for a removal, facility evaluation, proposed remedial action plan, final remedial design, or remedial action for a facility on the National Priorities List; or

''(ii) the final record of information on which the Administrator will base a hazard ranking system score for a facility.

''(3) LIMITATION.—Nothing in this subsection shall be construed—

''(A) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that concerns only the potential liability or settlement of potential liability of any person, whether prior to or following the commencement of litigation or administrative enforcement action;

''(B) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that is attended only by representatives of the United States (or of a department, agency, or instrumentality of the United States) with attorneys representing the United States (or of a department, agency, or instrumentality of the United States); or

''(C) to waive, compromise, or affect any privilege that may be applicable to a communication related to an activity described in subparagraph (A) or (B).

''(4) EVALUATION.—

''(A) IN GENERAL.—To the extent practicable, before and during the facility evaluation, the Administrator shall solicit and evaluate concerns, interests, and information from the community.

''(B) PROCEDURE.—An evaluation under subparagraph (A) shall include, as appropriate—

''(i) face-to-face community surveys to identify the location of private drinking water wells, historic and current or potential use of water, and other environmental resources in the community;

''(ii) a public meeting;

''(iii) written responses to significant concerns; and

''(iv) other appropriate participatory activities.

''(5) VIEWS AND PREFERENCES.—

''(A) SOLICITATION.—During the facility evaluation, the Administrator (or other person performing the facility evaluation) shall solicit the views and preferences of the community on the remediation and disposition of hazardous substances or pollutants or contaminants at the facility.

''(B) CONSIDERATION.—The views and preferences of the community shall be described in the facility evaluation and considered in the screening of remedial alternatives for the facility.

''(6) ALTERNATIVES.—Members of the community may propose remedial action alternatives, and the Administrator shall consider such alternatives in the same manner as the Administrator considers alternatives proposed by potentially responsible parties.

''(7) INFORMATION.—

''(A) THE COMMUNITY.—The Administrator, with all significant phases of the response action at the facility.

''(B) TECHNICAL STAFF.—The Administrator shall ensure that information gathered from the community during community outreach efforts reaches appropriate technical staff i

''(B) TECHNICAL STAFF.—The Administrator shall ensure that information gathered from the community during community outreach efforts reaches appropriate technical staff in a timely and effective manner.

''(C) RESPONSES.—The Administrator shall ensure that reasonable written or other appropriate responses will be made to such information.

''(8) NONPRIVILEGED INFORMATION.—Throughout all phases of response action at a facility, the Administrator shall make all nonprivileged information relating to a facility available to the public for inspection and copying without the need to file a formal request, subject to reasonable service charges as appropriate.

''(9) PRESENTATION.—

''(A) DOCUMENTS.—

''(i) IN GENERAL.—The Administrator, in carrying out responsibilities under this Act, shall ensure that the presentation of information on risk is complete and informative.

''(ii) RISK.—To the extent feasible, documents prepared by the Administrator and made available to the public that purport to

describe the degree of risk to human health shall be consistent with the risk communication principles outlined in section 131(c).

''(B) COMPARISONS.—The Administrator, in carrying out responsibilities under this Act, shall provide comparisons of the level of risk from hazardous substances found at the facility to comparable levels of risk from those hazardous substances ordinarily encountered by the general public through other sources of exposure.

''(10) REQUIREMENTS.—

''(A) LENGTHY REMOVAL ACTIONS.—Notwithstanding any other provision of this subsection, in the case of a removal action taken in accordance with section 104 that is expected to require more than 180 days to complete, and in any case in which implementation of a removal action is expected to obviate or that in fact obviates the need to conduct a long-term remedial action—

''(i) the Administrator shall, to the maximum extent practicable, allow for public participation consistent with paragraph (1); and

''(ii) the removal action shall achieve the goals of protecting human health and the environment in accordance with section 121(a)(1).

''(B) OTHER REMOVAL ACTIONS.—In the case of all other removal actions, the Administrator may provide the community with notice of the anticipated removal action and a public comment period, as appropriate.''.

(b) ISSUANCE OF GUIDELINES.—The Administrator of the Environmental Protection Agency shall issue guidelines under section 117(e)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 90 days after the date of enactment of this Act.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

SEC. 401. DEFINITIONS.

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 105(a)) is amended by adding at the end the following:

''(41) ACTUAL OR PLANNED OR REASONABLY ANTICIPATED FUTURE USE OF THE LAND AND WATER RESOURCES.—The term 'actual or planned or reasonably anticipated future use of the land and water resources' means—

''(A) the actual use of the land, surface water, and ground water at a facility on the date of submittal of the proposed remedial action plan; and

''(B)(i) with respect to land—

''(I) the use of land that is authorized by the zoning or land use decisions formally adopted, at or prior to the time of the initiation of the facility evaluation, by the local land use planning authority for a facility and the land immediately adjacent to the facility; and

''(II) any other reasonably anticipated use that the local land use authority, in consultation with the community response organization (if any), determines to have a substantial probability of occurring based on recent (as of the time of the determination) development patterns in the area in which the facility is located and on population projections for the area; and

''(ii) with respect to water resources, the future use of the surface water and ground water that is potentially affected by releases from a facility that is reasonably anticipated, by the governmental unit that regulates surface or ground water use or surface or ground water use planning in the vicinity of the facility, on the date of submission of the proposed remedial action plan.

''(42) SUSTAINABILITY.—The term 'sustainability'', for the purpose of section 121(a)(1)(B)(ii), means the ability of an ecosystem to continue to function within the normal range of its variability absent the effects of a release of a hazardous substance.''.

SEC. 402. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621) is amended—

(1) by striking the section heading and subsections (a) and (b) and inserting the following:

''SEC. 121. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

''(a) GENERAL RULES.—

''(1) SELECTION OF COST-EFFECTIVE REMEDIAL ACTION THAT PROTECTS HUMAN HEALTH AND THE ENVIRONMENT.—

''(A) IN GENERAL.—The Administrator shall select a cost-effective remedial action that achieves the goals of protecting human health and the environment as stated in subparagraph (B), and complies with other applicable Federal and State laws in accordance with subparagraph (C) on the basis of a facility-specific risk evaluation in accordance with section 131 and in accordance with the criteria stated in subparagraph (D) and the requirements of paragraph (2).

''(B) GOALS OF PROTECTING HUMAN HEALTH AND THE ENVIRONMENT.—

''(i) PROTECTION OF HUMAN HEALTH.—A remedial action shall be considered to protect human health if, considering the expected exposures associated with the actual or planned or reasonably anticipated future use of the land and water resources and on the basis of a facility-specific risk evaluation in accordance with section 131, the remedial action achieves a residual risk—

''(I) from exposure to nonthreshold carcinogenic hazardous substances, pollutants, or contaminants such that cumulative lifetime additional cancer from exposure to hazardous substances from releases at the facility range from 10^{-4} to 10^{-6} for the affected population; and

''(II) from exposure to threshold carcinogenic and noncarcinogenic hazardous substances, pollutants, or contaminants at the facility, that does not exceed a hazard index of 1.

''(ii) PROTECTION OF THE ENVIRONMENT.—A remedial action shall be considered to be protective of the environment if the remedial action—

''(I) protects ecosystems from significant threats to their sustainability arising from exposure to releases of hazardous substances at a site; and

''(II) does not cause a greater threat to the sustainability of ecosystems than a release of a hazardous substance.

''(iii) PROTECTION OF GROUND WATER.—A remedial action shall prevent or eliminate any actual human ingestion of drinking water containing any hazardous substance from the release at levels—

''(I) in excess of the maximum contaminant level established under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); or

''(II) if no such maximum contaminant level has been established for the hazardous substance, at levels that meet the goals for protection of human health under clause (i).

''(C) COMPLIANCE WITH FEDERAL AND STATE LAWS.—

''(i) SUBSTANTIVE REQUIREMENTS.—

''(I) IN GENERAL.—Subject to clause (iii) and subparagraphs (A) and (D) and paragraph (2), a remedial action shall—

''(aa) comply with the substantive requirements of all promulgated standards, requirements, criteria, and limitations under each Federal law and each State law relating to the environment or to the siting of facilities (including a State law that imposes a more stringent standard, requirement, criterion, or limitation than Federal law) that is applicable to the conduct or operation of the remedial action or to determination of the level of cleanup for remedial actions; and

''(bb) comply with or attain any other promulgated standard, requirement, criterion, or limitation under any State law relating to the environment or siting of facilities, as determined by the State, after the date of enactment of the Superfund Cleanup Acceleration Act of 1997, through a rulemaking procedure that includes public notice, comment, and written response comment, and opportunity for judicial review, but only if the State demonstrates that the standard, requirement, criterion, or limitation is of general applicability and is consistently applied to remedial actions under State law.

''(II) IDENTIFICATION OF FACILITIES.—Compliance with a State standard, requirement, criterion, or limitation described in subclause (I) shall be required at a facility only if the standard, requirement, criterion, or limitation has been identified by the State to the Administrator in a timely manner as being applicable to the facility.

''(III) PUBLISHED LISTS.—Each State shall publish a comprehensive list of the standards, requirements, criteria, and limitations that the State may apply to remedial actions under this Act, and shall revise the list periodically, as requested by the Administrator.

''(IV) CONTAMINATED MEDIA.—Compliance with this clause shall not be required with respect to return, replacement, or disposal of contaminated media or residuals of contaminated media into the same media in or very near then-existing areas of contamination onsite at a facility.

''(ii) PROCEDURAL REQUIREMENTS.—Procedural requirements of Federal and State standards, requirements, criteria, and limitations (including permitting requirements) shall not apply to response actions conducted onsite at a facility.

''(iii) WAIVER PROVISIONS.—

''(I) DETERMINATION BY THE PRESIDENT.—The Administrator shall evaluate and determine if it is not appropriate for a remedial action to attain a Federal or State standard, requirement, criterion, or limitation as required by clause (i).

''(II) SELECTION OF REMEDIAL ACTION THAT DOES NOT COMPLY.—The Administrator may select a remedial action at a facility that meets the requirements of subparagraph (B) but does not comply with or attain a Federal or State standard, requirement, criterion, or limitation described in clause (i) if the Administrator makes any of the following findings:

''(aa) IMPROPER IDENTIFICATION.—The standard, requirement, criterion, or limitation, which was improperly identified as an applicable requirement under clause (i)(I)(aa), fails to comply with the rulemaking requirements of clause (i)(I)(bb).

''(bb) PART OF REMEDIAL ACTION.—The selected remedial action is only part of a total remedial action that will comply with or attain the applicable requirements of clause (i) when the total remedial action is completed.

''(cc) GREATER RISK.—Compliance with or attainment of the standard, requirement, criterion, or limitation at the facility will result in greater risk to human health or the environment than alternative options.

''(dd) TECHNICALLY IMPRACTICABILITY.—Compliance with or attainment of the standard, requirement, criterion, or limitation is technically impracticable.

''(ee) EQUIVALENT TO STANDARD OF PERFORMANCE.—The selected remedial action will attain a standard of performance that is equivalent to that required under a standard,

requirement, criterion, or limitation described in clause (i) through use of another approach.

''(ff) INCONSISTENT APPLICATION.—With respect to a State standard, requirement, criterion, limitation, or level, the State has not consistently applied (or demonstrated the intention to apply consistently) the standard, requirement, criterion, or limitation or level in similar circumstances to other remedial actions in the State.

''(gg) BALANCE.—In the case of a remedial action to be undertaken under section 104 or 136 using amounts from the Fund, a selection of a remedial action that complies with or attains a standard, requirement, criterion, or limitation described in clause (i) will not provide a balance between the need for protection of public health and welfare and the environment at the facility, and the need to make amounts from the Fund available to respond to other facilities that may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of the threats presented by the various facilities.

''(III) PUBLICATION.—The Administrator shall publish any findings made under subclause (II), including an explanation and appropriate documentation.

''(D) REMEDY SELECTION CRITERIA.—In selecting a remedial action from among alternatives that achieve the goals stated in subparagraph (B) pursuant to a facility-specific risk evaluation in accordance with section 131, the Administrator shall balance the following factors, ensuring that no single factor predominates over the others:

''(i) The effectiveness of the remedy in protecting human health and the environment.

''(ii) The reliability of the remedial action in achieving the protectiveness standards over the long term.

''(iii) Any short-term risk to the affected community, those engaged in the remedial action effort, and to the environment posed by the implementation of the remedial action.

''(iv) The acceptability of the remedial action to the affected community.

''(v) The implementability and technical feasibility of the remedial action from an engineering perspective.

''(vi) The reasonableness of the cost.

''(2) TECHNICAL IMPRACTICABILITY.—

''(A) MINIMIZATION OF RISK.—If the Administrator, after reviewing the remedy selection criteria stated in paragraph (1)(D), finds that achieving the goals stated in paragraph (1)(B) is technically impracticable, the Administrator shall evaluate remedial measures that mitigate the risks to human health and the environment and select a technically practicable remedial action that will most closely achieve the goals stated in paragraph (1) through cost-effective means.

''(B) BASIS FOR FINDING.—A finding of technical impracticability may be made on the basis of a determination, supported by appropriate documentation, that, at the time at which the finding is made—

''(i) there is no known reliable means of achieving at a reasonable cost the goals stated in paragraph (1)(B); and

''(ii) it has not been shown that such a means is likely to be developed within a reasonable period of time.

''(3) PRESUMPTIVE REMEDIAL ACTIONS.—A remedial action that implements a presumptive remedial action issued under section 132 shall be considered to achieve the goals stated in paragraph (1)(B) and balance adequately the factors stated in paragraph (1)(D).

''(4) GROUND WATER.—

''(A) IN GENERAL.—The Administrator or the preparer of the remedial action plan shall select a cost effective remedial action for ground water that achieves the goals of protecting human health and the environment as stated in paragraph (1)(B) and with the requirements of this paragraph, and complies with other applicable Federal and State laws in accordance with subparagraph (C) on the basis of a facility-specific risk evaluation in accordance with section 131 and in accordance with the criteria stated in subparagraph (D) and the requirements of paragraph (2). If appropriate, a remedial action for ground water shall be phased, allowing collection of sufficient data to evaluate the effect of any other remedial action taken at the site and to determine the appropriate scope of the remedial action.

''(B) CONSIDERATIONS FOR GROUND WATER REMEDIAL ACTION.—A decision regarding a remedial action for ground water shall take into consideration—

''(i) the actual or planned or reasonably anticipated future use of ground water and the timing of that use; and

''(ii) any attenuation or biodegradation that would occur if no remedial action were taken.

''(C) UNCONTAMINATED GROUND WATER.—A remedial action shall protect uncontaminated ground water that is suitable for use as drinking water by humans or livestock if the water is uncontaminated and suitable for such use at the time of submission of the proposed remedial action plan. A remedial action to protect uncontaminated ground water may utilize natural attenuation (which may include dilution or dispersion, but in conjunction with biodegradation or other levels of attenuation necessary to facilitate the remediation of contaminated ground water) so long as the remedial action does not interfere with the actual or planned or reasonably anticipated future use of the uncontaminated ground water.

''(D) CONTAMINATED GROUND WATER.—

''(i) IN GENERAL.—In the case of contaminated ground water for which the actual or planned or reasonably anticipated future use of the resource is as drinking water for humans or livestock, if the Administrator determines that restoration of some portion of the contaminated ground water to a condition suitable for the use is technically practicable, the Administrator shall seek to restore the ground water to a condition suitable for the use.

''(ii) DETERMINATION OF RESTORATION PRACTICABILITY.—In making a determination regarding the technical practicability of ground water restoration—

''(I) there shall be no presumption of the technical practicability; and

''(II) the determination of technical practicability shall, to the extent practicable, be made on the basis of projections, modeling, or other analysis on a site-specific basis without a requirement for the construction or installation and operation of a remedial action.

''(iii) DETERMINATION OF NEED FOR AND METHODS OF RESTORATION.—In making a determination and selecting a remedial action regarding restoration of contaminated ground water the Administrator shall take into account—

''(I) the ability to substantially accelerate the availability of ground water for use as drinking water beyond the rate achievable by natural attenuation; and

''(II) the nature and timing of the actual or planned or reasonably anticipated use of such ground water.

''(iv) RESTORATION TECHNICALLY IMPRACTICABLE.—

''(I) IN GENERAL.—A remedial action for contaminated ground water having an actual or planned or reasonably anticipated future use as a drinking water source for humans or livestock for which attainment of the levels described in paragraph (1)(B)(iii) is technically impracticable shall be selected in accordance with paragraph (1)(D)(2).

''(II) NO INGESTION.—Selected remedies may rely on point-of-use treatment or other measures to ensure that there will be no ingestion of drinking water at levels exceeding the requirement of paragraph (1)(B)(iii) (I) or (II).

''(III) INCLUSION AS PART OF OPERATION AND MAINTENANCE.—The operation and maintenance of any treatment device installed at the point of use shall be included as part of the operation and maintenance of the remedy.

''(E) GROUND WATER NOT SUITABLE FOR USE AS DRINKING WATER.—Notwithstanding any other evaluation or determination of the potential suitability of ground water for drinking water use, ground water that is not suitable for use as drinking water by humans or livestock because of naturally occurring conditions, or is so contaminated by the effects of broad-scale human activity unrelated to a specific facility or release that restoration of drinking water quality is technically impracticable or is physically incapable of yielding a quantity of 150 gallons per day of water to a well or spring, shall be considered to be not suitable for use as drinking water.

''(F) OTHER GROUND WATER.—Remedial action for contaminated ground water (other than ground water having an actual or planned or reasonably anticipated future use as a drinking water source for humans or livestock) shall attain levels appropriate for the then-current or reasonably anticipated future use of the ground water, or levels appropriate considering the then-current use of any ground water or surface water to which the contaminated ground water discharges.

''(5) OTHER CONSIDERATIONS APPLICABLE TO REMEDIAL ACTIONS.—A remedial action that uses institutional and engineering controls shall be considered to be on an equal basis with all other remedial action alternatives.'';

(2) by redesignating subsection (c) as subsection (b);

(3) by striking subsection (d); and

(4) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 403. REMEDY SELECTION METHODOLOGY.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 201(a)) is amended by adding at the end the following:

''SEC. 131. FACILITY-SPECIFIC RISK EVALUATIONS.

''(a) USES.—

''(1) IN GENERAL.—A facility-specific risk evaluation shall be used to—

''(A) identify the significant components of potential risk posed by a facility;

''(B) screen out potential contaminants, areas, or exposure pathways from further study at a facility;

''(C) compare the relative protectiveness of alternative potential remedies proposed for a facility; and

''(D) demonstrate that the remedial action selected for a facility is capable of protecting human health and the environment considering the actual or planned or reasonably anticipated future use of the land and water resources.

''(2) COMPLIANCE WITH PRINCIPLES.—A facility-specific risk evaluation shall comply with the principles stated in this section to ensure that—

''(A) actual or planned or reasonably anticipated future use of the land and water resources is given appropriate consideration; and

''(B) all of the components of the evaluation are, to the maximum extent practicable,

scientifically objective and inclusive of all relevant data.

''(b) RISK EVALUATION PRINCIPLES.—A facility-specific risk evaluation shall—

''(1) be based on actual information or scientific estimates of exposure considering the actual or planned or reasonably anticipated future use of the land and water resources to the extent that substituting such estimates for those made using standard assumptions alters the basis for decisions to be made;

''(2) be comprised of components each of which is, to the maximum extent practicable, scientifically objective, and inclusive of all relevant data;

''(3) use chemical and facility-specific data and analysis (such as bioavailability, exposure, and fate and transport evaluations) in preference to default assumptions when—

''(A) such data and analysis are likely to vary by facility; and

''(B) facility-specific risks are to be communicated to the public or the use of such data and analysis alters the basis for decisions to be made; and

''(4) use a range and distribution of realistic and scientifically supportable assumptions when chemical and facility-specific data are not available, if the use of such assumptions would communicate more accurately the consequences of the various decision options.

''(c) RISK COMMUNICATION PRINCIPLES.—The document reporting the results of a facility-specific risk evaluation shall—

''(1) contain an explanation that clearly communicates the risks at the facility;

''(2) identify and explain all assumptions used in the evaluation, any alternative assumptions that, if made, could materially affect the outcome of the evaluation, the policy or value judgments used in choosing the assumptions, and whether empirical data conflict with or validate the assumptions;

''(3) present—

''(A) a range and distribution of exposure and risk estimates, including, if numerical estimates are provided, central estimates of exposure and risk using—

''(i) the most scientifically supportable assumptions or a weighted combination of multiple assumptions based on different scenarios; or

''(ii) any other methodology designed to characterize the most scientifically supportable estimate of risk given the information that is available at the time of the facility-specific risk evaluation; and

''(B) a statement of the nature and magnitude of the scientific and other uncertainties associated with those estimates;

''(4) state the size of the population potentially at risk from releases from the facility and the likelihood that potential exposures will occur based on the actual or planned or reasonably anticipated future use of the land and water resources; and

''(5) compare the risks from the facility to other risks commonly experienced by members of the local community in their daily lives and similar risks regulated by the Federal Government.

''(d) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Administrator shall issue a final regulation implementing this section that promotes a realistic characterization of risk that neither minimizes nor exaggerates the risks and potential risks posed by a facility or a proposed remedial action.

''SEC. 132. PRESUMPTIVE REMEDIAL ACTIONS.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a final regulation establishing presumptive remedial actions for commonly encountered types of facilities with reasonably well understood contamination problems and exposure potential.

''(b) PRACTICABILITY AND COST-EFFECTIVENESS.—Such presumptive remedies must have been demonstrated to be technically practicable and cost-effective methods of achieving the goals of protecting human health and the environment stated in section 121(a)(1)(B).

''(c) VARIATIONS.—The Administrator may issue various presumptive remedial actions based on various uses of land and water resources, various environmental media, and various types of hazardous substances, pollutants, or contaminants.

''(d) ENGINEERING CONTROLS.—Presumptive remedial actions are not limited to treatment remedies, but may be based on, or include, institutional and standard engineering controls.''.

SEC. 404. REMEDY SELECTION PROCEDURES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 403) is amended by adding at the end the following:

''SEC. 133. REMEDIAL ACTION PLANNING AND IMPLEMENTATION.

''(a) IN GENERAL.—

''(1) BASIC RULES.—

''(A) PROCEDURES.—A remedial action with respect to a facility that is listed or proposed for listing on the National Priorities List shall be developed and selected in accordance with the procedures set forth in this section.

''(B) NO OTHER PROCEDURES OR REQUIREMENTS.—The procedures stated in this section are in lieu of any procedures or requirements under any other law to conduct remedial investigations, feasibility studies, record of decisions, remedial designs, or remedial actions.

''(C) LIMITED REVIEW.—In a case in which the potentially responsible parties prepare a remedial action plan, only the work plan, facility evaluation, proposed remedial action plan, and final remedial design shall be subject to review, comment, and approval by the Administrator.

''(D) DESIGNATION OF POTENTIALLY RESPONSIBLE PARTIES TO PREPARE WORK PLAN, FACILITY EVALUATION, PROPOSED REMEDIAL ACTION, AND REMEDIAL DESIGN AND TO IMPLEMENT THE REMEDIAL ACTION PLAN.—In the case of a facility for which the Administrator is not required to prepare a work plan, facility evaluation, proposed remedial action, and remedial design and implement the remedial action plan—

''(i) if a potentially responsible party or group of potentially responsible parties—

''(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

''(II) demonstrates that the potentially responsible party or group of potentially responsible parties has the financial resources and the expertise to perform those functions, the Administrator shall designate the potentially responsible party or group of potentially responsible parties to perform those functions; and

''(ii) if more than 1 potentially responsible party or group of potentially responsible parties—

''(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

''(II) demonstrates that the potentially responsible parties or group of potentially responsible parties has the financial resources and the expertise to perform those functions, the Administrator, based on an assessment of the various parties' comparative financial resources, technical expertise, and histories of cooperation with respect to facilities that are listed on the National Priorities List, shall designate 1 potentially responsible party or group of potentially responsible parties to perform those functions.

''(E) APPROVAL REQUIRED AT EACH STEP OF PROCEDURE.—No action shall be taken with respect to a facility evaluation, proposed remedial action plan, remedial action plan, or remedial design, respectively, until a work plan, facility evaluation, proposed remedial action plan, and remedial action plan, respectively, have been approved by the Administrator.

''(F) NATIONAL CONTINGENCY PLAN.—The Administrator shall conform the National Contingency Plan regulations to reflect the procedures stated in this section.

''(2) USE OF PRESUMPTIVE REMEDIAL ACTIONS.—

''(A) PROPOSAL TO USE.—In a case in which a presumptive remedial action applies, the Administrator (if the Administrator is conducting the remedial action) or the preparer of the remedial action plan may, after conducting a facility evaluation, propose a presumptive remedial action for the facility, if the Administrator or preparer shows with appropriate documentation that the facility fits the generic classification for which a presumptive remedial action has been issued and performs an engineering evaluation to demonstrate that the presumptive remedial action can be applied at the facility.

''(B) LIMITATION.—The Administrator may not require a potentially responsible party to implement a presumptive remedial action.

''(b) REMEDIAL ACTION PLANNING PROCESS.—

''(1) IN GENERAL.—The Administrator or a potentially responsible party shall prepare and implement a remedial action plan for a facility.

''(2) CONTENTS.—A remedial action plan shall consist of—

''(A) the results of a facility evaluation, including any screening analysis performed at the facility;

''(B) a discussion of the potentially viable remedies that are considered to be reasonable under section 121(a), the respective capital costs, operation and maintenance costs, and estimated present worth costs of the remedies, and how the remedies balance the factors stated in section 121(a)(1)(D);

''(C) a description of the remedial action to be taken;

''(D) a description of the facility-specific risk-based evaluation under section 131 and a demonstration that the selected remedial action will satisfy sections 121(a) and 132; and

''(E) a realistic schedule for conducting the remedial action, taking into consideration facility-specific factors.

''(3) WORK PLAN.—

''(A) IN GENERAL.—Prior to preparation of a remedial action plan, the preparer shall develop a work plan, including a community information and participation plan, which generally describes how the remedial action plan will be developed.

''(B) SUBMISSION.—A work plan shall be submitted to the Administrator, the State, the community response organization, the local library, and any other public facility designated by the Administrator.

''(C) PUBLICATION.—The Administrator or other person that prepares a work plan shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the work plan is available for review at the local library and that comments concerning the work plan can be submitted to the preparer

of the work plan, the Administrator, the State, or the local community response organization.

''(D) FORWARDING OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall forward the comments to the preparer of the work plan.

''(E) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a work plan, the Administrator shall—

''(i) identify to the preparer of the work plan, with specificity, any deficiencies in the submission; and

''(ii) require that the preparer submit a revised work plan within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

''(4) FACILITY EVALUATION.—

''(A) IN GENERAL.—The Administrator (or the preparer of the facility evaluation) shall conduct a facility evaluation at each facility to characterize the risk posed by the facility by gathering enough information necessary to—

''(i) assess potential remedial alternatives, including ascertaining, to the degree appropriate, the volume and nature of the contaminants, their location, potential exposure pathways and receptors;

''(ii) discern the actual or planned or reasonably anticipated future use of the land and water resources; and

''(iii) screen out any uncontaminated areas, contaminants, and potential pathways from further consideration.

''(B) SUBMISSION.—A draft facility evaluation shall be submitted to the Administrator for approval.

''(C) PUBLICATION.—Not later than 30 days after submission, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the draft facility evaluation, the Administrator shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the draft facility evaluation is available for review and that comments concerning the evaluation can be submitted to the Administrator, the State, and the community response organization.

''(D) AVAILABILITY OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall make the comments available to the preparer of the facility evaluation.

''(E) NOTICE OF APPROVAL.—If the Administrator approves a facility evaluation, the Administrator shall—

''(i) notify the community response organization; and

''(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

''(F) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a facility evaluation, the Administrator shall—

''(i) identify to the preparer of the facility evaluation, with specificity, any deficiencies in the submission; and

''(ii) require that the preparer submit a revised facility evaluation within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

''(5) PROPOSED REMEDIAL ACTION PLAN.—

''(A) SUBMISSION.—In a case in which a potentially responsible party prepares a remedial action plan, the preparer shall submit the remedial action plan to the Administrator for approval and provide a copy to the local library.

''(B) PUBLICATION.—After receipt of the proposed remedial action plan, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the remedial action plan, the Administrator shall cause to be published in a newspaper of general circulation in the area where the facility is located and posted in other conspicuous places in the local community a notice announcing that the proposed remedial action plan is available for review at the local library and that comments concerning the remedial action plan can be submitted to the Administrator, the State, and the community response organization.

''(C) AVAILABILITY OF COMMENTS.—If comments are submitted to a State or the community response organization, the State or community response organization shall make the comments available to the preparer of the proposed remedial action plan.

''(D) HEARING.—The Administrator shall hold a public hearing at which the proposed remedial action plan shall be presented and public comment received.

''(E) REMEDY REVIEW BOARDS.—

''(i) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this section, the Administrator shall establish and appoint the members of 1 or more remedy review boards (referred to in this subparagraph as a ''remedy review board''), each consisting of independent technical experts within Federal and State agencies with responsibility for remediating contaminated facilities.

''(ii) SUBMISSION OF REMEDIAL ACTION PLANS FOR REVIEW.—Subject to clause (iii), a proposed remedial action plan prepared by a potentially responsible party or the Administrator may be submitted to a remedy review board at the request of the person responsible for preparing or implementing the remedial action plan.

''(iii) NO REVIEW.—The Administrator may preclude submission of a proposed remedial action plan to a remedy review board if the Administrator determines that review by a remedy review board would result in an unreasonably long delay that would threaten human health or the environment.

''(iv) RECOMMENDATIONS.—Not later than 180 days after receipt of a request for review (unless the Administrator, for good cause, grants additional time), a remedy review board shall provide recommendations to the Administrator regarding whether the proposed remedial action plan is—

''(I) consistent with the requirements and standards of section 121(a);

''(II) technically feasible or infeasible from an engineering perspective; and

''(III) reasonable or unreasonable in cost.

''(v) REVIEW BY THE ADMINISTRATOR.—

''(I) CONSIDERATION OF COMMENTS.—In reviewing a proposed remedial action plan, a remedy review board shall consider any comments submitted under subparagraphs (B) and (D) and shall provide an opportunity for a meeting, if requested, with the person responsible for preparing or implementing the remedial action plan.

''(II) STANDARD OF REVIEW.—In determining whether to approve or disapprove a proposed remedial action plan, the Administrator shall give substantial weight to the recommendations of the remedy review board.

''(F) APPROVAL.—

''(i) IN GENERAL.—The Administrator shall approve a proposed remedial action plan if the plan—

''(I) contains the information described in section 131(b); and

''(II) satisfies section 121(a).

''(ii) DEFAULT.—If the Administrator fails to issue a notice of disapproval of a proposed remedial action plan in accordance with subparagraph (G) within 180 days after the proposed plan is submitted, the plan shall be considered to be approved and its implementation fully authorized.

''(G) NOTICE OF APPROVAL.—If the Administrator approves a proposed remedial action plan, the Administrator shall—

''(i) notify the community response organization; and

''(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

''(H) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a proposed remedial action plan, the Administrator shall—

''(i) inform the preparer of the proposed remedial action plan, with specificity, of any deficiencies in the submission; and

''(ii) request that the preparer submit a revised proposed remedial action plan within a reasonable time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

''(I) JUDICIAL REVIEW.—A recommendation under subparagraph (E)(iv) and the Administrator's review of such a recommendation shall be subject to the limitations on judicial review under section 113(h).

''(6) IMPLEMENTATION OF REMEDIAL ACTION PLAN.—A remedial action plan that has been approved or is considered to be approved under paragraph (5) shall be implemented in accordance with the schedule set forth in the remedial action plan.

''(7) REMEDIAL DESIGN.—

''(A) SUBMISSION.—A remedial design shall be submitted to the Administrator, or in a case in which the Administrator is preparing the remedial action plan, shall be completed by the Administrator.

''(B) PUBLICATION.—After receipt by the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall—

''(i) notify the community response organization; and

''(ii) cause a notice of submission or completion of the remedial design to be published in a newspaper of general circulation and posted in conspicuous places in the area where the facility is located.

''(C) COMMENT.—The Administrator shall provide an opportunity to the public to submit written comments on the remedial design.

''(D) APPROVAL.—Not later than 90 days after the submission to the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall approve or disapprove the remedial design.

''(E) NOTICE OF APPROVAL.—If the Administrator approves a remedial design, the Administrator shall—

''(i) notify the community response organization; and

''(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

''(F) NOTICE OF DISAPPROVAL.—If the Administrator disapproves the remedial design, the Administrator shall—

''(i) identify with specificity any deficiencies in the submission; and

''(ii) allow the preparer submitting a remedial design a reasonable time (which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator) in which to submit a revised remedial design.

''(c) ENFORCEMENT OF REMEDIAL ACTION PLAN.—

''(1) NOTICE OF SIGNIFICANT DEVIATION.—If the Administrator determines that the implementation of the remedial action plan has

deviated significantly from the plan, the Administrator shall provide the implementing party a notice that requires the implementing party, within a reasonable period of time specified by the Administrator, to—

''(A) comply with the terms of the remedial action plan; or

''(B) submit a notice for modifying the plan.

''(2) FAILURE TO COMPLY.—

''(A) CLASS ONE ADMINISTRATIVE PENALTY.—In issuing a notice under paragraph (1), the Administrator may impose a class one administrative penalty consistent with section 109(a).

''(B) ADDITIONAL ENFORCEMENT MEASURES.—If the implementing party fails to either comply with the plan or submit a proposed modification, the Administrator may pursue all additional appropriate enforcement measures pursuant to this Act.

''(d) MODIFICATIONS TO REMEDIAL ACTION.—

''(1) DEFINITION.—In this subsection, the term 'major modification' means a modification that—

''(A) fundamentally alters the interpretation of site conditions at the facility;

''(B) fundamentally alters the interpretation of sources of risk at the facility;

''(C) fundamentally alters the scope of protection to be achieved by the selected remedial action;

''(D) fundamentally alters the performance of the selected remedial action; or

''(E) delays the completion of the remedy by more than 180 days.

''(2) MAJOR MODIFICATIONS.—

''(A) IN GENERAL.—If the Administrator or other implementing party proposes a major modification to the plan, the Administrator or other implementing party shall demonstrate that—

''(i) the major modification constitutes the most cost-effective remedial alternative that is technologically feasible and is not unreasonably costly; and

''(ii) that the revised remedy will continue to satisfy section 121(a).

''(B) NOTICE AND COMMENT.—The Administrator shall provide the implementing party, the community response organization, and the local community notice of the proposed major modification and at least 30 days' opportunity to comment on any such proposed modification.

''(C) PROMPT ACTION.—At the end of the comment period, the Administrator shall promptly approve or disapprove the proposed modification and order implementation of the modification in accordance with any reasonable and relevant requirements that the Administrator may specify.

''(3) MINOR MODIFICATIONS.—Nothing in this section modifies the discretionary authority of the Administrator to make a minor modification of a record of decision or remedial action plan to conform to the best science and engineering, the requirements of this Act, or changing conditions at a facility.''.

SEC. 405. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 404) is amended by adding at the end the following:

''SEC. 134. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

''(a) IN GENERAL.—

''(1) PROPOSED NOTICE OF COMPLETION AND PROPOSED DELISTING.—Not later than 180 days after the completion by the Administrator of physical construction necessary to implement a response action at a facility, or not later than 180 days after receipt of a notice of such completion from the implementing party, the Administrator shall publish a notice of completion and proposed delisting of the facility from the National Priorities List in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

''(2) PHYSICAL CONSTRUCTION.—For the purposes of paragraph (1), physical construction necessary to implement a response action at a facility shall be considered to be complete when—

''(A) construction of all systems, structures, devices, and other components necessary to implement a response action for the entire facility has been completed in accordance with the remedial design plan; or

''(B) no construction, or no further construction, is expected to be undertaken.

''(3) COMMENTS.—The public shall be provided 30 days in which to submit comments on the notice of completion and proposed delisting.

''(4) FINAL NOTICE.—Not later than 60 days after the end of the comment period, the Administrator shall—

''(A) issue a final notice of completion and delisting or a notice of withdrawal of the proposed notice until the implementation of the remedial action is determined to be complete; and

''(B) publish the notice in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

''(5) FAILURE TO ACT.—If the Administrator fails to publish a notice of withdrawal within the 60-day period described in paragraph (4)—

''(A) the remedial action plan shall be deemed to have been completed; and

''(B) the facility shall be delisted by operation of law.

''(6) EFFECT OF DELISTING.—The delisting of a facility shall have no effect on—

''(A) liability allocation requirements or cost-recovery provisions otherwise provided in this Act;

''(B) any liability of a potentially responsible party or the obligation of any person to provide continued operation and maintenance;

''(C) the authority of the Administrator to make expenditures from the Fund relating to the facility; or

''(D) the enforceability of any consent order or decree relating to the facility.

''(7) FAILURE TO MAKE TIMELY DISAPPROVAL.—The issuance of a final notice of completion and delisting or of a notice of withdrawal within the time required by subsection (a)(3) constitutes a nondiscretionary duty within the meaning of section 310(a)(2).

''(b) CERTIFICATION.—A final notice of completion and delisting shall include a certification by the Administrator that the facility has met all of the requirements of the remedial action plan (except requirements for continued operation and maintenance).

''(c) FUTURE USE OF A FACILITY.—

''(1) FACILITY AVAILABLE FOR UNRESTRICTED USE.—If, after completion of physical construction, a facility is available for unrestricted use and there is no need for continued operation and maintenance, the potentially responsible parties shall have no further liability under any Federal, State, or local law (including any regulation) for remediation at the facility, unless the Administrator determines, based on new and reliable factual information about the facility, that the facility does not satisfy section 121(a).

''(2) FACILITY NOT AVAILABLE FOR ANY USE.—If, after completion of physical construction, a facility is not available for any use or there are continued operation and maintenance requirements that preclude use of the facility, the Administrator shall—

''(A) review the status of the facility every 5 years; and

''(B) require additional remedial action at the facility if the Administrator determines, after notice and opportunity for hearing, that the facility does not satisfy section 121(a).

''(3) FACILITIES AVAILABLE FOR RESTRICTED USE.—The Administrator may determine that a facility or portion of a facility is available for restricted use while a response action is under way or after physical construction has been completed. The Administrator shall make a determination that uncontaminated portions of the facility are available for unrestricted use when such use would not interfere with ongoing operations and maintenance activities or endanger human health or the environment.

''(d) OPERATION AND MAINTENANCE.—The need to perform continued operation and maintenance at a facility shall not delay delisting of the facility or issuance of the certification if performance of operation and maintenance is subject to a legally enforceable agreement, order, or decree.

''(e) CHANGE OF USE OF FACILITY.—

''(1) PETITION.—Any person may petition the Administrator to change the use of a facility described in subsection (c) (2) or (3) from that which was the basis of the remedial action plan.

''(2) GRANT.—The Administrator may grant a petition under paragraph (1) if the petitioner agrees to implement any additional remedial actions that the Administrator determines are necessary to continue to satisfy section 121(a), considering the different use of the facility.

''(3) RESPONSIBILITY FOR RISK.—When a petition has been granted under paragraph (2), the person requesting the change in use of the facility shall be responsible for all risk associated with altering the facility and all costs of implementing any necessary additional remedial actions.''.

SEC. 406. TRANSITION RULES FOR FACILITIES CURRENTLY INVOLVED IN REMEDY SELECTION.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 405) is amended by adding at the end the following:

''SEC. 135. TRANSITION RULES FOR FACILITIES INVOLVED IN REMEDY SELECTION ON DATE OF ENACTMENT.

''(a) NO RECORD OF DECISION.—

''(1) OPTION.—In the case of a facility or operable unit that, as of the date of enactment of this section, is the subject of a remedial investigation and feasibility study (whether completed or incomplete), the potentially responsible parties or the Administrator may elect to follow the remedial action plan process stated in section 133 rather than the remedial investigation and feasibility study and record of decision process under regulations in effect on the date of enactment of this section that would otherwise apply if the requesting party notifies the Administrator and other potentially responsible parties of the election not later than 90 days after the date of enactment of this section.

''(2) SUBMISSION OF FACILITY EVALUATION.—In a case in which the potentially responsible parties have or the Administrator has made an election under subsection (a), the potentially responsible parties shall submit the proposed facility evaluation within 180 days after the date on which notice of the election is given.

''(b) REMEDY REVIEW BOARDS.—

''(1) AUTHORITY.—A remedy review board established under section 133(b)(5)(E) (referred to in this subsection as a 'remedy review board') shall have authority to consider a petition under paragraph (3) or (4) of this subsection.

''(2) GENERAL PROCEDURE.—

''(A) COMPLETION OF REVIEW.—The review of a petition submitted to a remedy review board under this subsection shall be completed not later than 180 days after the receipt of the petition unless the Administrator, for good cause, grants additional time.

''(B) COSTS OF REVIEW.—All reasonable costs incurred by a remedy review board, the Administrator, or a State in conducting a review or evaluating a petition for possible objection shall be borne by the petitioner.

''(C) DECISIONS.—At the completion of the 180-day review period, a remedy review board shall issue a written decision including responses to all comments submitted during the review process with regard to a petition.

''(D) OPPORTUNITY FOR COMMENT AND MEETINGS.—In reviewing a petition under this subsection, a remedy review board shall provide an opportunity for all interested parties, including representatives of the State and local community in which the facility is located, to comment on the petition and, if requested, to meet with the remedy review board under this subsection.

''(E) REVIEW BY THE ADMINISTRATOR.—

''(i) IN GENERAL.—The Administrator shall have final review of any decision of a remedy review board under this subsection.

''(ii) STANDARD OF REVIEW.—In conducting a review of a decision of a remedy review board under this subsection, the Administrator shall accord substantial weight to the remedy review board's decision.

''(iii) REJECTION OF DECISION.—Any determination to reject a remedy review board's decision under this subsection must be approved by the Administrator or the Assistant Administrator for Solid Waste and Emergency Response.

''(F) JUDICIAL REVIEW.—A decision of a remedy review board under subparagraph (C) and the Administrator's review of such a decision shall be subject to the limitations on judicial review under section 113(h).

''(G) CALCULATIONS OF COST SAVINGS.—

''(i) IN GENERAL.—A determination with respect to relative cost savings and whether construction has begun shall be based on operable units or distinct elements or phases of remediation and not on the entire record of decision.

''(ii) ITEMS NOT TO BE CONSIDERED.—In determining the amount of cost savings—

''(I) there shall not be taken into account any administrative, demobilization, remobilization, or additional investigation costs of the review or modification of the remedy associated with the alternative remedy; and

''(II) only the estimated cost savings of expenditures avoided by undertaking the alternative remedy shall be considered as cost savings.

''(3) CONSTRUCTION NOT BEGUN.—

''(A) PETITION.—In the case of a facility or operable unit with respect to which a record of decision has been signed but construction has not yet begun prior to the date of enactment of this section and which meet the criteria of subparagraph (B), the implementor of the record of decision may file a petition with a remedy review board not later than 90 days after the date of enactment of this section to determine whether an alternate remedy under section 133 should apply to the facility or operable unit.

''(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

''(i) the alternative remedial action proposed in the petition satisfies section 121(a);

''(ii)(I) in the case of a record of decision with an estimated implementation cost of between $5,000,000 and $10,000,000, the alternative remedial action achieves cost savings of at least 25 percent of the total costs of the record of decision; or

''(II) in the case of an record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of $2,500,000 or more;

''(iii) in the case of a record of decision involving ground water extraction and treatment remedies for substances other than dense, nonaqueous phase liquids, the alternative remedial action achieves cost savings of $2,000,000 or more; or

''(iv) in the case of a record of decision intended primarily for the remediation of dense, nonaqueous phase liquids, the alternative remedial action achieves cost savings of $1,000,000 or more.

''(C) CONTENTS OF PETITION.—For the purposes of facility-specific risk assessment under section 131, a petition described in subparagraph (A) shall rely on risk assessment data that were available prior to issuance of the record of decision but shall consider the actual or planned or reasonably anticipated future use of the land and water resources.

''(D) INCORRECT DATA.—Notwithstanding subparagraph (B) and (C), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

''(4) ADDITIONAL CONSTRUCTION.—

''(A) PETITION.—In the case of a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section and which meets the criteria of subparagraph (B), but for which additional construction or long-term operation and maintenance activities are anticipated, the implementor of the record of decision may file a petition with a remedy review board within 90 days after the date of enactment of this section to determine whether an alternative remedial action should apply to the facility or operable unit.

''(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

''(i) the alternative remedial action proposed in the petition satisfies section 121(a); and

''(ii)(I) in the case of a record of decision valued at a total cost between $5,000,000 and $10,000,000, the alternative remedial action achieves cost savings of at least 50 percent of the total costs of the record of decision;

''(II) in the case of a record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of $5,000,000 or more; or

''(III) in the case of a record of decision involving monitoring, operations, and maintenance obligations where construction is completed, the alternative remedial action achieves cost savings of $1,000,000 or more.

(C) INCORRECT DATA.—Notwithstanding subparagraph (B), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information, and the alternative remedial action achieves cost savings of at least $2,000,000.

''(D) MANDATORY REVIEW.—A remedy review board shall not be required to entertain more than 1 petition under subparagraph (B)(ii)(III) or (C) with respect to a remedial action plan.

''(5) DELAY.—In determining whether an alternative remedial action will substantially delay the implementation of a remedial action of a facility, no consideration shall be given to the time necessary to review a petition under paragraph (3) or (4) by a remedy review board or the Administrator.

''(6) OBJECTION BY THE GOVERNOR.——

''(A) NOTIFICATION.—Not later than 7 days after receipt of a petition under this subsection, a remedy review board shall notify the Governor of the State in which the facility is located and provide the Governor a copy of the petition.

''(B) OBJECTION.—The Governor may object to the petition or the modification of the remedy, if not later than 90 days after receiving a notification under subparagraph (A) the Governor demonstrates to the remedy review board that the selection of the proposed alternative remedy would cause an unreasonably long delay that would be likely to result in significant adverse human health impacts, environmental risks, disruption of planned future use, or economic hardship.

''(C) DENIAL.—On receipt of an objection and demonstration under subparagraph (C), the remedy review board shall—

''(i) deny the petition; or

''(ii) consider any other action that the Governor may recommend.

''(7) SAVINGS CLAUSE.—Notwithstanding any other provision of this subsection, in the case of a remedial action plan for which a final record of decision under section 121 has been published, if remedial action was not completed pursuant to the remedial action plan before the date of enactment of this section, the Administrator or a State exercising authority under section 130(d) may modify the remedial action plan in order to conform the plan to the requirements of this Act, as in effect on the date of enactment of this section.''.

SEC. 407. NATIONAL PRIORITIES LIST.

(a) AMENDMENTS.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(1) in subsection (a)(8) by adding at the end the following:

''(C) provision that in listing a facility on the National Priorities List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated in ground water that has moved through subsurface strata from another parcel of real estate at which the release actually occurred, unless—

''(i) the ground water is in use as a public drinking water supply or was in such use at the time of the release; and

''(ii) the owner or operator of the facility is liable, or is affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.''; and

(2) by adding at the end the following:

''(h) LISTING OF PARTICULAR PARCELS.—

''(1) DEFINITION.—In subsection (a)(8)(C) and paragraph (2) of this subsection, the term 'parcel of real property' means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

''(2) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) shall be construed to limit the Administrator's authority under section 104 to obtain access to and undertake response actions at any parcel of real property to which a released hazardous substance, pollutant, or contaminant has migrated in the ground water.''.

(b) REVISION OF NATIONAL PRIORITIES LIST.—The President shall revise the National Priorities List to conform with the amendments made by subsection (a) not later that 180 days of the date of enactment of this Act.

TITLE V—LIABILITY

SEC. 501. LIABILITY EXCEPTIONS AND LIMITATIONS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9601) (as amended by section 401) is amended by adding at the end of the following:

''(43) CODISPOSAL LANDFILLS.—The 'term codisposal landfill' means a landfill that—

''(A) was listed on the National Priorities List as of January 1, 1997;

''(B) received for disposal municipal solid waste or sewage sludge; and

''(C) may also have received, before the effective date of requirements under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), any hazardous waste, if a substantial portion of the total volume of waste disposed of at the landfill consisted of municipal solid waste or sewage sludge that was transported to the landfill from outside the facility.

''(44) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste'—

''(A) means waste material generated by—

''(i) a household (such as a single- or multifamily residence) or a public lodging (such as a hotel or motel); or

''(ii) a commercial, institutional, or industrial source, to the extent that—

''(I) the waste material is essentially the same as waste normally generated by a household or public lodging; or

''(II) the waste material is collected and disposed of with other municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, regardless of when generated, would be conditionally exempt small quantity generator waste under the regulation issued under section 3001(d) of the Solid Waste Disposal Act (42 U.S.C. 6921(d)); and

''(B) includes food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste; but

''(C) does not include combustion ash generated by resource recovery facilities or municipal incinerators or waste from manufacturing or processing (including pollution control) operations that is not essentially the same as waste normally generated by a household or public lodging.

''(45) MUNICIPALITY.—The term 'municipality' means—

''(A) means a political subdivision of a State (including a city, county, village, town, township, borough, parish, school district, sanitation district, water district, or other public entity performing local governmental functions); and

''(B) includes a natural person acting in the capacity of an official, employee, or agent of any entity described in subparagraph (A) in the performance of a governmental function.

''(46) SEWAGE SLUDGE.—The term 'sewage sludge' means solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste water at or by publicly owned treatment works.''.

(b) EXCEPTIONS AND LIMITATIONS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 306(b)) is amended by adding at the end the following:

''(q) LIABILITY EXEMPTION FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No person (other than the United States or a department, agency, or instrumentality of the United States) shall be liable to the United States or to any other person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List to the extent that—

''(1) the person is liable solely under subparagraph (C) or (D) of subsection (a)(1); and

''(2) the arrangement for disposal, treatment, or transport for disposal or treatment, or the acceptance for transport for disposal or treatment, involved only municipal solid waste or sewage sludge.

''(r) DE MINIMIS CONTRIBUTOR EXEMPTION.—

''(1) IN GENERAL.—In the case of a vessel or facility that is not owned by the United States and is listed on the National Priorities List, no person described in subparagraph (C) or (D) of subsection (a)(1) (other than the United States or any department, agency, or instrumentality of the United States) shall be liable to the United States or to any other person (including liability for contribution) for any response costs under this section incurred after the date of enactment of this subsection, if no activity specifically attributable to the person resulted in—

''(A) the disposal or treatment of more than 1 percent of the volume of material containing a hazardous substance at the vessel or facility before January 1, 1997; or

''(B) the disposal or treatment of not more than 200 pounds or 110 gallons of material containing hazardous substances at the vessel or facility before January 1, 1997, or such greater amount as the Administrator may determine by regulation.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the Administrator determines that material described in paragraph (1)(A) or (B) has contributed or may contribute significantly to the amount of response costs at the facility.

''(s) SMALL BUSINESS EXEMPTION.—No person (other than the United States or a department, agency, or instrumentality of the United States) shall be liable to the United States or to any person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List incurred after the date of enactment of this subsection if the person is a business that, during the taxable year preceding the date of transmittal of notification that the business is a potentially responsible party, had on average fewer than 30 employees or for that taxable year reported $3,000,000 or less in annual gross revenues.

''(t) CODISPOSAL LANDFILL EXEMPTION AND LIMITATIONS.—

''(1) EXEMPTION.—No person shall be liable to the United States or to any person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List incurred after the date of enactment of this subsection to the extent that—

''(A) the person is liable under subparagraph (C) or (D) of subsection (a)(1); and

''(B) the arrangement for disposal, treatment, or transport for disposal or treatment or the acceptance for disposal or treatment occurred with respect to a codisposal landfill.

''(2) LIMITATIONS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) LARGE MUNICIPALITY.—The term 'large municipality' means a municipality with a population of 100,000 or more according to the 1990 census.

''(ii) SMALL MUNICIPALITY.—The term 'small municipality' means a municipality with a population of less than 100,000 according to the 1990 census.

''(B) AGGREGATE LIABILITY OF SMALL MUNICIPALITIES.—With respect to a codisposal landfill listed on the National Priorities List that is owned or operated only by small municipalities and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of all small municipalities for response costs incurred on or after the date of enactment of this subsection shall be the lesser of—

''(i) 10 percent of the total amount of response costs at the facility; or

''(ii) the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility (as if the facility had continued to accept municipal solid waste through January 1, 1997);.

''(C) AGGREGATE LIABILITY OF LARGE MUNICIPALITIES.—With respect to a codisposal landfill listed on the National Priorities List that is owned or operated only by large municipalities and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of all large municipalities for response costs incurred on or after the date of enactment of this subsection shall be the lesser of—

''(i) 20 percent of the proportion of the total amount of response costs at the facility; or

''(ii) the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility (as if the facility had continued to accept municipal solid waste through January 1, 1997).

''(D) AGGREGATE PERSONS OTHER THAN MUNICIPALITIES.—With respect to a codisposal landfill listed on the National Priorities List that is owned or operated in whole or in part by persons other than municipalities and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of all persons other than municipalities shall be the lesser of—

''(i) 30 percent of the proportion of the total amount of response costs at the facility; or

''(ii) the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility (as if the facility had continued to accept municipal solid waste through January 1, 1997).

''(E) AGGREGATE LIABILITY FOR MUNICIPALITIES AND NON-MUNICIPALITIES.—With respect to a codisposal landfill listed on the National Priorities List that is owned and operated by a combination of small and large municipalities or persons other than municipalities and that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation)—

''(i) the allocator shall determine the proportion of the use of the landfill that was made by small and large municipalities and persons other than municipalities during the time the facility was in operation; and

''(ii) shall allocate among the parties an appropriate percentage of total liability not exceeding the aggregate liability percentages stated in (B)(ii), (C)(ii), (D)(ii), respectively.

''(F) LIABILITY AT SUBTITLE D FACILITIES.—With respect to a codisposal landfill listed on the National Priorities List that is owned and operated by a small municipality, large municipality, or person other than municipalities, or a combination of thereof, and that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of such municipalities and persons shall be no greater than the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility.

''(3) APPLICABILITY.—This subsection shall not apply to—

''(A) a person that acted in violation of subtitle C of the Solid Waste Disposal Act (42 U.S.C. Sec. 6921 et seq.);

''(B) a person that owned or operated a codisposal landfill in violation of the applicable requirements for municipal solid waste landfill units under subtitle D of the Solid Waste Disposal Act (42 U.S.C. Sec. 6941 et seq.) after October 9, 1991;

''(C) a facility that was not operated pursuant to and in substantial compliance with any other applicable permit, license, or other approval or authorization relating to municipal solid waste or sewage sludge disposal issued by an appropriate State, Indian tribe, or local government authority;

''(D) a person described in section 136(t); or

''(E) a person that impedes the performance of a response action.''.

(c) EFFECTIVE DATE AND TRANSITION RULES.—The amendments made by this section—

(1) shall take effect with respect to an action under section 106, 107, or 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606, 9607, and 9613) that becomes final on or after the date of enactment of this Act; but

(2) shall not apply to an action brought by any person under section 107 or 113 of that Act (42 U.S.C. 9607 and 9613) for costs or damages incurred by the person before the date of enactment of this Act.

SEC. 502. CONTRIBUTION FROM THE FUND.

Section 112 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9612) is amended by adding at the end the following:

''(g) CONTRIBUTION FROM THE FUND.—

''(1) COMPLETION OF OBLIGATIONS.—A person that is subject to an administrative order issued under section 106 or has entered into a settlement decree with the United States or a State as of the date of enactment of this subsection shall complete the person's obligations under the order or settlement decree.

''(2) CONTRIBUTION.—A person described in paragraph (1) shall receive contribution from the Fund for any portion of the costs (excluding attorneys' fees) incurred for the performance of the response action after the date of enactment of this subsection if the person is not liable for such costs by reason of a liability exemption or limitation under this section.

''(3) APPLICATION FOR CONTRIBUTION.—

''(A) IN GENERAL.—Contribution under this section shall be made upon receipt by the Administrator of an application requesting contribution.

''(B) PERIODIC APPLICATIONS.—Beginning with the 7th month after the date of enactment of this subsection, 1 application for each facility shall be submitted every 6 months for all persons with contribution rights (as determined under subparagraph (2)).

''(4) REGULATIONS.—Contribution shall be made in accordance with such regulations as the Administrator shall issue within 180 days after the date of enactment of this section.

''(5) DOCUMENTATION.—The regulations under paragraph (4) shall, at a minimum, require that an application for contribution contain such documentation of costs and expenditures as the Administrator considers necessary to ensure compliance with this subsection.

''(6) EXPEDITION.—The Administrator shall develop and implement such procedures as may be necessary to provide contribution to such persons in an expeditious manner, but in no case shall a contribution be made later than 1 year after submission of an application under this subsection.

''(7) CONSISTENCY WITH NATIONAL CONTINGENCY PLAN.—No contribution shall be made under this subsection unless the Administrator determines that such costs are consistent with the National Contingency Plan.''.

SEC. 503. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

''SEC. 136. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

''(a) DEFINITIONS.—In this section:

''(1) ALLOCATED SHARE.—The term 'allocated share' means the percentage of liability assigned to a potentially responsible party by the allocator in an allocation report under subsection (f)(4).

''(2) ALLOCATION PARTY.—The term 'allocation party'—

''(A) means a party, named on a list of parties that will be subject to the allocation process under this section, issued by an allocator; and

''(B) with respect to a facility described in subparagraph (4)(C), includes only parties that are, by virtue of section 107(t)(3), not entitled to the exemption under section 107(t)(1) or the limitation under section 107(t)(2).

''(3) ALLOCATOR.—The term 'allocator' means an allocator retained to conduct an allocation for a facility.

''(4) MANDATORY ALLOCATION FACILITY.—The term 'mandatory allocation facility' means—

''(A) a non-federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section and at which there are 2 or more potentially responsive persons (including 1 or more persons that are qualified for an exemption under section 107 (q), (r), or (s)), if at least 1 potentially responsible person is viable and not entitled to an exemption under section 107 (q), (r), or (s);

''(B) a federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which 1 or more potentially responsible parties (other that a department, agency, or instrumentality of the United States) are liable or potentially liable if at least 1 potentially liable party is liable and not entitled to an exemption under section 107 (q), (r), or (s); and

''(C) a codisposal landfill listed on the National Priorities List with respect to which—

''(i) costs are incurred after the date of enactment of this section; and

(ii) by virtue of section 107(t)(3), 1 or more persons are not entitled to the exemption under section 107(t)(1) or the limitation under section 107(t)(2).

''(5) ORPHAN SHARE.—The term 'orphan share' means the total of the allocated shares determined by the allocator under subsection (h).

''(b) ALLOCATIONS OF LIABILITY.—

''(1) MANDATORY ALLOCATIONS.—For each mandatory allocation facility involving 2 or more potentially responsible parties (including 1 or more potentially responsible parties that are qualified for an exemption under section 107 (q), (r), or (s)), the Administrator shall conduct the allocation process under this section.

''(2) REQUESTED ALLOCATIONS.—For a facility (other than a mandatory allocation facility) involving 2 or more potentially responsible parties, the Administrator shall conduct the allocation process under this section if the allocation is requested in writing by a potentially responsible party that has—

''(A) incurred response costs with respect to a response action; or

''(B) resolved any liability to the United States with respect to a response action in order to assist in allocating shares among potentially responsible parties.

''(3) PERMISSIVE ALLOCATIONS.—For any facility (other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2)) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

''(4) ORPHAN SHARE.—An allocation performed at a vessel or facility identified under subsection (b) (2) or (3) shall not require payment of an orphan share under subsection (h) or contribution under subsection (p).

''(5) EXCLUDED FACILITIES.—

''(A) IN GENERAL.—A codisposal landfill listed on the Natural Priorities List at which costs are incurred after January 1, 1997, and at which all potentially responsible persons are entitled to the liability exemption under section 107(t)(1). This section does not apply to a response action at a mandatory allocation facility for which there was in effect as of the date of enactment of this section, a settlement, decree, or order that determines the liability and allocated shares of all potentially responsible parties with respect to the response action.

''(B) AVAILABILITY OF ORPHAN SHARE.—For any mandatory allocation facility that is otherwise excluded by subparagraph (A) and for which there was not in effect as of the date of enactment of this section a final judicial order that determined the liability of all parties to the action for response costs incurred after the date of enactment of this section, an allocation shall be conducted for the sole purpose of determining the availability of orphan share funding pursuant to subsection (h)(2) for any response costs incurred after the date of enactment of this section.

''(6) SCOPE OF ALLOCATIONS.—An allocation under this section shall apply to—

''(A) response costs incurred after the date of enactment of this section, with respect to a mandatory allocation facility described in subsection (a)(4) (A), (B), or (C); and

''(B) response costs incurred at a facility that is the subject of a requested or permissive allocation under subsection (b) (2) or (3).

''(8) OTHER MATTERS.—This section shall not limit or affect—

''(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that has been the subject of a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

''(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion

of the allocation process, subject to subsection (h)(3);

''(C) the validity, enforceability, finality, or merits of any judicial or administrative order, judgment, or decree, issued prior to the date of enactment of this section with respect to liability under this Act; or

''(D) the validity, enforceability, finality, or merits of any preexisting contract or agreement relating to any allocation of responsibility or any indemnity for, or sharing of, any response costs under this Act.

''(c) MORATORIUM ON LITIGATION AND ENFORCEMENT.—

''(1) IN GENERAL.—No person may assert a claim for recovery of a response cost or contribution toward a response cost (including a claim for insurance proceeds) under this Act or any other Federal or State law in connection with a response action—

''(A) for which an allocation is required to be performed under subsection (b)(1); or

''(B) for which the Administrator has initiated the allocation process under this section,

until the date that is 120 days after the date of issuance of a report by the allocator under subsection (f)(4) or, if a second or subsequent report is issued under subsection (m), the date of issuance of the second or subsequent report.

''(2) PENDING ACTIONS OR CLAIMS.—If a claim described in paragraph (1) is pending on the date of enactment of this section or on initiation of an allocation under this section, the portion of the claim pertaining to response costs that are the subject of the allocation shall be stayed until the date that is 120 days after the date of issuance of a report by the allocator under subsection (f)(4) or, if a second or subsequent report is issued under subsection (m), the date of issuance of the second or subsequent report, unless the court determines that a stay would result in manifest injustice.

''(3) TOLLING OF PERIOD OF LIMITATION.—

''(A) BEGINNING OF TOLLING.—Any applicable period of limitation with respect to a claim subject to paragraph (1) shall be tolled beginning on the earlier of—

''(i) the date of listing of the facility on the National Priorities List if the listing occurs after the date of enactment of this section; or

''(ii) the date of initiation of the allocation process under this section.

''(B) END OF TOLLING.—A period of limitation shall be tolled under subparagraph (A) until the date that is 180 days after the date of issuance of a report by the allocator under subsection (f)(4), or of a second or subsequent report under subsection (m).

''(4) RETAINED AUTHORITY.—Except as specifically provided in this section, this section does not affect the authority of the Administrator to—

''(A) exercise the powers conferred by section 103, 104, 105, 106, or 122;

''(B) commence an action against a party if there is a contemporaneous filing of a judicial consent decree resolving the liability of the party;

''(C) file a proof of claim or take other action in a proceeding under title 11, United States Code; or

''(D) require implementation of a response action at an allocation facility during the conduct of the allocation process.

''(d) ALLOCATION PROCESS.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Administrator shall establish by regulation a process for conduct of mandatory, requested, and permissive allocations.

''(2) REQUIREMENTS.—In developing the allocation process under paragraph (1), the Administrator shall—

''(A) ensure that parties that are eligible for an exemption from liability under section 107 (q), (r), (s), (t), (v), and (w)—

''(i) are identified by the Administrator (before selection of an allocator or by an allocator);

''(ii) at the earliest practicable opportunity, are notified of their status; and

''(iii) are provided with appropriate written assurances that they are not liable for response costs under this Act;

''(B) establish an expedited process for the selection, appointment, and retention by contract of a impartial allocator, acceptable to both potentially responsible parties and a representative of the Fund, to conduct the allocation process in a fair, efficient, and impartial manner;

''(C) permit any person to propose to name additional potentially responsible parties as allocation parties, the costs of any such nominated party's costs (including reasonable attorney's fees) to be borne by the party that proposes the addition of the party to the allocation process if the allocator determines that there is no adequate basis in law or fact to conclude that a party is liable based on the information presented by the nominating party or otherwise available to the allocator; and

''(D) require that the allocator adopt any settlement that allocates 100 percent of the recoverable costs of a response action at a facility to the signatories to the settlement, if the settlement contains a waiver of—

''(i) a right of recovery from any other party of any response cost that is the subject of the allocation; and

''(ii) a right to contribution under this Act, with respect to any response action that is within the scope of allocation process.

''(2) TIME LIMIT.—The Administrator shall initiate the allocation process for a facility not later than the earlier of—

''(A) the date of completion of the facility evaluation or remedial investigation for the facility; or

''(B) the date that is 60 days after the date of selection of a removal action.

''(3) NO JUDICIAL REVIEW.—There shall be no judicial review of any action regarding selection of an allocator under the regulation issued under this subsection.

''(4) RECOVERY OF CONTRACT COSTS.—The costs of the Administrator in retaining an allocator shall be considered to be a response cost for all purposes of this Act.

''(e) FEDERAL, STATE, AND LOCAL AGENCIES.—

''(1) IN GENERAL.—Other than as set forth in this Act, any Federal, State, or local governmental department, agency, or instrumentality that is named as a potentially responsible party or an allocation party shall be subject to, and be entitled to the benefits of, the allocation process and allocation determination under this section to the same extent as any other party.

''(2) ORPHAN SHARE.—The Administrator or the Attorney General shall participate in the allocation proceeding as the representative of the Fund from which any orphan share shall be paid.

''(f) ALLOCATION AUTHORITY.—

''(1) INFORMATION-GATHERING AUTHORITIES.—

''(A) IN GENERAL.—An allocator may request information from any person in order to assist in the efficient completion of the allocation process.

''(B) REQUESTS.—Any person may request that an allocator request information under this paragraph.

''(C) AUTHORITY.—An allocator may exercise the information-gathering authority of the Administrator under section 104(e), including issuing an administrative subpoena to compel the production of a document or the appearance of a witness.

''(D) DISCLOSURE.—Notwithstanding any other law, any information submitted to the allocator in response to a subpoena issued under subparagraph (C) shall be exempt from disclosure to any person under section 552 of title 5, United States Code.

''(E) ORDERS.—In a case of contumacy or failure of a person to obey a subpoena issued under subparagraph (C), an allocator may request the Attorney General to—

''(i) bring a civil action to enforce the subpoena; or

''(ii) if the person moves to quash the subpoena, to defend the motion.

''(F) FAILURE OF ATTORNEY GENERAL TO RESPOND.—If the Attorney General fails to provide any response to the allocator within 30 days of a request for enforcement of a subpoena or information request, the allocator may retain counsel to commence a civil action to enforce the subpoena or information request.

''(2) ADDITIONAL AUTHORITY.—An allocator may—

''(A) schedule a meeting or hearing and require the attendance of allocation parties at the meeting or hearing;

''(B) sanction an allocation party for failing to cooperate with the orderly conduct of the allocation process;

''(C) require that allocation parties wishing to present similar legal or factual positions consolidate the presentation of the positions;

''(D) obtain or employ support services, including secretarial, clerical, computer support, legal, and investigative services; and

''(E) take any other action necessary to conduct a fair, efficient, and impartial allocation process.

''(3) CONDUCT OF ALLOCATION PROCESS.—

''(A) IN GENERAL.—The allocator shall conduct the allocation process and render a decision based solely on the provisions of this section, including the allocation factors described in subsection (g).

''(B) OPPORTUNITY TO BE HEARD.—Each allocation party shall be afforded an opportunity to be heard (orally or in writing, at the option of an allocation party) and an opportunity to comment on a draft allocation report.

''(C) RESPONSES.—The allocator shall not be required to respond to comments.

''(D) STREAMLINING.—The allocator shall make every effort to streamline the allocation process and minimize the cost of conducting the allocation.

''(4) ALLOCATION REPORT.—The allocator shall provide a written allocation report to the Administrator and the allocation parties that specifies the allocation share of each allocation party and any orphan shares, as determined by the allocator.

''(g) EQUITABLE FACTORS FOR ALLOCATION.—The allocator shall prepare a nonbinding allocation of percentage shares of responsibility to each allocation party and to the orphan share, in accordance with this section and without regard to any theory of joint and several liability, based on—

''(1) the amount of hazardous substances contributed by each allocation party;

''(2) the degree of toxicity of hazardous substances contributed by each allocation party;

''(3) the mobility of hazardous substances contributed by each allocation party;

''(4) the degree of involvement of each allocation party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

''(5) the degree of care exercised by each allocation party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

''(6) the cooperation of each allocation party in contributing to any response action and in providing complete and timely information to the allocator; and

''(7) such other equitable factors as the allocator determines are appropriate.

''(h) ORPHAN SHARES.—

''(1) IN GENERAL.—The allocator shall determine whether any percentage of responsibility for the response action shall be allocable to the orphan share.

''(2) MAKEUP OF ORPHAN SHARE.—The orphan share shall consist of—

''(A) any share that the allocator determines is attributable to an allocation party that is insolvent or defunct and that is not affiliated with any financially viable allocation party;

''(B) the difference between the aggregate share that the allocator determines is attributable to a person and the aggregate share actually assumed by the person in a settlement with the United States otherwise if—

''(i) the person is eligible for an expedited settlement with the United States under section 122 based on limited ability to pay response costs;

''(ii) the liability of the person is eliminated, limited, or reduced by any provision of this Act; or

''(iii) the person settled with the United States before the completion of the allocation.; and

''(C) all response costs at a codisposal landfill listed on the National Priorities incurred after the date of enactment of this section attributable to any person or group of persons entitled to an exemption or limitation under section 107 (q), (r), (s), or (t).

''(4) UNATTRIBUTABLE SHARES.—A share attributable to a hazardous substance that the allocator determines was disposed at the facility that cannot be attributed to any identifiable party shall be distributed among the allocation parties and the orphan share in accordance with the allocated share assigned to each.

''(i) INFORMATION REQUESTS.—

''(1) DUTY TO ANSWER.—Each person that receives an information request or subpoena from the allocator shall provide a full and timely response to the request.

''(2) CERTIFICATION.—An answer to an information request by an allocator shall include a certification by a representative that meets the criteria established in section 270.11(a) of title 40, Code of Federal Regulations (or any successor regulation), that—

''(A) the answer is correct to the best of the representative's knowledge;

''(B) the answer is based on a diligent good faith search of records in the possession or control of the person to whom the request was directed;

''(C) the answer is based on a reasonable inquiry of the current (as of the date of the answer) officers, directors, employees, and agents of the person to whom the request was directed;

''(D) the answer accurately reflects information obtained in the course of conducting the search and the inquiry;

''(E) the person executing the certification understands that there is a duty to supplement any answer if, during the allocation process, any significant additional, new, or different information becomes known or available to the person; and

''(F) the person executing the certification understands that there are significant penalties for submitting false information, including the possibility of a fine or imprisonment for a knowing violation.

''(j) PENALTIES.—

''(1) CIVIL.—

''(A) IN GENERAL.—A person that fails to submit a complete and timely answer to an information request, a request for the production of a document, or a summons from an allocator, submits a response that lacks the certification required under subsection (i)(2), or knowingly makes a false or misleading material statement or representation in any statement, submission, or testimony during the allocation process (including a statement or representation in connection with the nomination of another potentially responsible party) shall be subject to a civil penalty of not more than $10,000 per day of violation.

''(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

''(2) CRIMINAL.—A person that knowingly and willfully makes a false material statement or representation in the response to an information request or subpoena issued by the allocator under subsection (i) shall be considered to have made a false statement on a matter within the jurisdiction of the United States within the meaning of section 1001 of title 18, United States Code.

''(k) DOCUMENT REPOSITORY; CONFIDENTIALITY.—

''(1) DOCUMENT REPOSITORY.—

''(A) IN GENERAL.—The allocator shall establish and maintain a document repository containing copies of all documents and information provided by the Administrator or any allocation party under this section or generated by the allocator during the allocation process.

''(B) AVAILABILITY.—Subject to paragraph (2), the documents and information in the document repository shall be available only to an allocation party for review and copying at the expense of the allocation party.

''(2) CONFIDENTIALITY.—

''(A) IN GENERAL.—Each document or material submitted to the allocator or placed in the document repository and the record of any information generated or obtained during the allocation process shall be confidential.

''(B) MAINTENANCE.—The allocator, each allocation party, the Administrator, and the Attorney General—

''(i) shall maintain the documents, materials, and records of any depositions or testimony adduced during the allocation as confidential; and

''(ii) shall not use any such document or material or the record in any other matter or proceeding or for any purpose other than the allocation process.

''(C) DISCLOSURE.—Notwithstanding any other law, the documents and materials and the record shall not be subject to disclosure to any person under section 552 of title 5, United States Code.

''(D) DISCOVERY AND ADMISSIBILITY.—

''(i) IN GENERAL.—Subject to clause (ii), the documents and materials and the record shall not be subject to discovery or admissible in any other Federal, State, or local judicial or administrative proceeding, except—

''(I) a new allocation under subsection (m) or (r) for the same response action; or

''(II) an initial allocation under this section for a different response action at the same facility.

''(ii) OTHERWISE DISCOVERABLE OR ADMISSIBLE.—

''(I) DOCUMENT OR MATERIAL.—If the original of any document or material submitted to the allocator or placed in the document repository was otherwise discoverable or admissible from a party, the original document, if subsequently sought from the party, shall remain discoverable or admissible.

''(II) FACTS.—If a fact generated or obtained during the allocation was otherwise discoverable or admissible from a witness, testimony concerning the fact, if subsequently sought from the witness, shall remain discoverable or admissible.

''(3) NO WAIVER OF PRIVILEGE.—The submission of testimony, a document, or information under the allocation process shall not constitute a waiver of any privilege applicable to the testimony, document, or information under any Federal or State law or rule of discovery or evidence.

''(4) PROCEDURE IF DISCLOSURE SOUGHT.—

''(A) NOTICE.—A person that receives a request for a statement, document, or material submitted for the record of an allocation proceeding, shall—

''(i) promptly notify the person that originally submitted the item or testified in the allocation proceeding; and

''(ii) provide the person that originally submitted the item or testified in the allocation proceeding an opportunity to assert and defend the confidentiality of the item or testimony.

''(B) RELEASE.—No person may release or provide a copy of a statement, document, or material submitted, or the record of an allocation proceeding, to any person not a party to the allocation except—

''(i) with the written consent of the person that originally submitted the item or testified in the allocation proceeding; or

''(ii) as may be required by court order.

''(5) CIVIL PENALTY.—

''(A) IN GENERAL.—A person that fails to maintain the confidentiality of any statement, document, or material or the record generated or obtained during an allocation proceeding, or that releases any information in violation of this section, shall be subject to a civil penalty of not more than $25,000 per violation.

''(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

''(C) DEFENSES.—In any administrative or judicial proceeding, it shall be a complete defense that any statement, document, or material or the record at issue under subparagraph (A)—

''(i) was in, or subsequently became part of, the public domain, and did not become part of the public domain as a result of a violation of this subsection by the person charged with the violation;

''(ii) was already known by lawful means to the person receiving the information in connection with the allocation process; or

''(iii) became known to the person receiving the information after disclosure in connection with the allocation process and did not become known as a result of any violation of this subsection by the person charged with the violation.

''(l) REJECTION OF ALLOCATION REPORT.—

''(1) REJECTION.—The Administrator and the Attorney General may jointly reject a report issued by an allocator only if the Administrator and the Attorney General jointly publish, not later than 180 days after the Administrator receives the report, a written determination that—

''(A) no rational interpretation of the facts before the allocator, in light of the factors required to be considered, would form a reasonable basis for the shares assigned to the parties; or

''(B) the allocation process was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

''(2) FINALITY.—A report issued by an allocator may not be rejected after the date that is 180 days after the date on which the United States accepts a settlement offer (excluding an expedited settlement under section 122) based on the allocation.

''(3) JUDICIAL REVIEW.—Any determination by the Administrator or the Attorney General under this subsection shall not be subject to judicial review unless 2 successive allocation reports relating to the same response action are rejected, in which case any allocation party may obtain judicial review of the second rejection in a United States district court under subchapter II of chapter 5 of part I of title 5, United States Code.

''(4) DELEGATION.—The authority to make a determination under this subsection may not be delegated to any officer or employee below the level of an Assistant Administrator or Acting Assistant Administrator or an Assistant Attorney General or Acting Assistant Attorney General with authority for implementing this Act.

''(m) SECOND AND SUBSEQUENT ALLOCATIONS.—

''(1) IN GENERAL.—If a report is rejected under subsection (l), the allocation parties shall select an allocator to perform, on an expedited basis, a new allocation based on the same record available to the previous allocator.

''(2) MORATORIUM AND TOLLING.—The moratorium and tolling provisions of subsection (c) shall be extended until the date that is 180 days after the date of the issuance of any second or subsequent allocation report under paragraph (1).

''(3) SAME ALLOCATOR.—The allocation parties may select the same allocator who performed 1 or more previous allocations at the facility, except that the Administrator may determine that an allocator whose previous report at the same facility has been rejected under subsection (l) is unqualified to serve.

''(n) SETTLEMENTS BASED ON ALLOCATIONS.—

''(1) DEFINITION.—In this subsection, the term 'all settlements' includes any orphan share allocated under subsection (h).

''(2) IN GENERAL.—Unless an allocation report is rejected under subsection (l), any allocation party at a mandatory allocation facility (including an allocation party whose allocated share is funded partially or fully by orphan share funding under subsection (h)) shall be entitled to resolve the liability of the party to the United States for response actions subject to allocation if, not later than 90 days after the date of issuance of a report by the allocator, the party—

''(A) offers to settle with the United States based on the allocated share specified by the allocator; and

''(B) agrees to the other terms and conditions stated in this subsection.

''(3) PROVISIONS OF SETTLEMENTS.—

''(A) IN GENERAL.—A settlement based on an allocation under this section—

''(i) may consist of a cash-out settlement or an agreement for the performance of a response action; and

''(ii) shall include—

''(I) a waiver of contribution rights against all persons that are potentially responsible parties for any response action addressed in the settlement;

''(II) a covenant not to sue that is consistent with section 122(f) and, except in the case of a cash-out settlement, provisions regarding performance or adequate assurance of performance of the response action;

''(III) a premium, calculated on a facility-specific basis and subject to the limitations on premiums stated in paragraph (5), that reflects the actual risk to the United States of not collecting unrecovered response costs for the response action, despite the diligent prosecution of litigation against any viable allocation party that has not resolved the liability of the party to the United States, except that no premium shall apply if all allocation parties participate in the settlement or if the settlement covers 100 percent of the response costs subject to the allocation;

''(IV) complete protection from all claims for contribution regarding the response action addressed in the settlement; and

''(V) provisions through which a settling party shall receive prompt contribution from the Fund under subsection (o) of any response costs incurred by the party for any response action that is the subject of the allocation in excess of the allocated share of the party, including the allocated portion of any orphan share.

''(B) RIGHT TO CONTRIBUTION.—A right to contribution under subparagraph (A)(ii)(V) shall not be contingent on recovery by the United States of any response costs from any person other than the settling party.

''(4) REPORT.—The Administrator shall report annually to Congress on the administration of the allocation process under this section, providing in the report—

''(A) information comparing allocation results with actual settlements at multiparty facilities;

''(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation;

''(C) a description of any impediments to achieving complete recovery; and

''(D) a complete accounting of the costs incurred in administering and participating in the allocation process.

''(5) PREMIUM.—In each settlement under this subsection, the premium authorized—

''(A) shall be determined on a case-by-case basis to reflect the actual litigation risk faced by the United States with respect to any response action addressed in the settlement; but

''(B) shall not exceed—

''(i) 5 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 80 percent and less than 100 percent of responsibility for the response action;

''(ii) 10 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 60 percent and not more than 80 percent of responsibility for the response action;

''(iii) 15 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 40 percent and not more than 60 percent of responsibility for the response action; or

''(iv) 20 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for 40 percent or less of responsibility for the response; and

''(C) shall be reduced proportionally by the percentage of the allocated share for that party paid through orphan funding under subsection (h).

''(o) FUNDING OF ORPHAN SHARES.—

''(1) CONTRIBUTION.—For each settlement agreement entered into under subsection (n), the Administrator shall promptly reimburse the allocation parties for any costs incurred that are attributable to the orphan share, as determined by the allocator.

''(2) ENTITLEMENT.—Paragraph (1) constitutes an entitlement to any allocation party eligible to receive a reimbursement.

''(3) AMOUNTS OWED.—

''(A) DELAY IF FUNDS ARE UNAVAILABLE.—If funds are unavailable in any fiscal year to reimburse all allocation parties pursuant to paragraph (1), the Administrator may delay payment until funds are available.

''(B) PRIORITY.—The priority for reimbursement shall be based on the length of time that has passed since the settlement between the United States and the allocation parties pursuant to subsection (n).

''(C) PAYMENT FROM FUNDS MADE AVAILABLE IN SUBSEQUENT FISCAL YEARS.—Any amount due and owing in excess of available appropriations in any fiscal year shall be paid from amounts made available in subsequent fiscal years, along with interest on the unpaid balances at the rate equal to that of the current average market yield on outstanding marketable obligations of the United States with a maturity of 1 year.

''(4) DOCUMENTATION AND AUDITING.—The Administrator—

''(A) shall require that any claim for contribution be supported by documentation of actual costs incurred; and

''(B) may require an independent auditing of any claim for contribution.

''(p) POST-ALLOCATION CONTRIBUTION.—

''(1) IN GENERAL.—An allocation party (including a party that is subject to an order under section 106 or a settlement decree) that incurs costs after the date of enactment of this section for implementation of a response action that is the subject of an allocation under this section to an extent that exceeds the percentage share of the allocation party, as determined by the allocator, shall be entitled to prompt payment of contribution for the excess amount, including any orphan share, from the Fund, unless the allocation report is rejected under subsection (l).

''(2) NOT CONTINGENT.—The right to contribution under paragraph (1) shall not be contingent on recovery by the United States of a response cost from any other person.

''(3) TERMS AND CONDITIONS.—

''(A) RISK PREMIUM.—A contribution payment shall be reduced by the amount of the litigation risk premium under subsection (n)(5) that would apply to a settlement by the allocation party concerning the response action, based on the total allocated shares of the parties that have not reached a settlement with the United States.

''(B) TIMING.—

''(i) IN GENERAL.—A contribution payment shall be paid out during the course of the response action that was the subject of the allocation, using reasonable progress payments at significant milestones.

''(ii) CONSTRUCTION.—Contribution for the construction portion of the work shall be paid out not later than 120 days after the date of completion of the construction.

''(C) EQUITABLE OFFSET.—A contribution payment is subject to equitable offset or recoupment by the Administrator at any time if the allocation party fails to perform the work in a proper and timely manner.

''(D) INDEPENDENT AUDITING.—The Administrator may require independent auditing of any claim for contribution.

''(E) WAIVER.—An allocation party seeking contribution waives the right to seek recovery of response costs in connection with the response action, or contribution toward the response costs, from any other person.

''(F) BAR.—An administrative order shall be in lieu of any action by the United States or any other person against the allocation party for recovery of response costs in connection with the response action, or for contribution toward the costs of the response action.

''(q) POST-SETTLEMENT LITIGATION.—

''(1) IN GENERAL.—Subject to subsections (m) and (n), and on the expiration of the moratorium period under subsection (c)(4), the Administrator may commence an action under section 107 against an allocation party that has not resolved the liability of the party to the United States following allocation and may seek to recover response costs not recovered through settlements with other persons.

''(2) ORPHAN SHARE.—The recoverable costs shall include any orphan share determined under subsection (h), but shall not include any share allocated to a Federal, State, or

local governmental agency, department, or instrumentality.

''(3) IMPLEADER.—A defendant in an action under paragraph (1) may implead an allocation party only if the allocation party did not resolve liability to the United States.

''(4) CERTIFICATION.—In commencing or maintaining an action under section 107 against an allocation party after the expiration of the moratorium period under subsection (c)(4), the Attorney General shall certify in the complaint that the defendant failed to settle the matter based on the share that the allocation report assigned to the party.

''(5) RESPONSE COSTS.—

''(A) ALLOCATION PROCEDURE.—The cost of implementing the allocation procedure under this section, including reasonable fees and expenses of the allocator, shall be considered as a necessary response cost.

''(B) FUNDING OF ORPHAN SHARES.—The cost attributable to funding an orphan share under this section—

''(i) shall be considered as a necessary cost of response cost; and

''(ii) shall be recoverable in accordance with section 107 only from an allocation party that does not reach a settlement and does not receive an administrative order under subsection (n) or (p).

''(r) NEW INFORMATION.—

''(1) IN GENERAL.—An allocation under this section shall be final, except that any settling party, including the United States, may seek a new allocation with respect to the response action that was the subject of the settlement by presenting the Administrator with clear and convincing evidence that—

''(A) the allocator did not have information concerning—

''(i) 35 percent or more of the materials containing hazardous substances at the facility; or

''(ii) 1 or more persons not previously named as an allocation party that contributed 15 percent or more of materials containing hazardous substances at the facility; and

''(B) the information was discovered subsequent to the issuance of the report by the allocator.

''(2) NEW ALLOCATION.—Any new allocation of responsibility—

''(A) shall proceed in accordance with this section;

''(B) shall be effective only after the date of the new allocation report; and

''(C) shall not alter or affect the original allocation with respect to any response costs previously incurred.

''(s) DISCRETION OF ALLOCATOR.—A contract by which the Administrator retain an allocator shall give the allocator broad discretion to conduct the allocation process in a fair, efficient, and impartial manner, and the Administrator shall not issue any rule or order that limits the discretion of the allocator in the conduct of the allocation.

''(t) ILLEGAL ACTIVITIES.—Section 107 (o), (p), (q), (r), (s), (t), (u), (v), and (w) and section 112(g) shall not apply to any person whose liability for response costs under section 107(a)(1) is otherwise based on any act, omission, or status that is determined by a court or administrative body of competent jurisdiction, within the applicable statute of limitation, to have been a violation of any Federal or State law pertaining to the treatment, storage, disposal, or handling of hazardous substances if the violation pertains to a hazardous substance, the release or threat of release of which caused the incurrence of response costs at the vessel or facility.''.

SEC. 504. LIABILITY OF RESPONSE ACTION CONTRACTORS.

(a) LIABILITY OF CONTRACTORS.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended by adding at the end the following:

''(H) LIABILITY OF CONTRACTORS.—

''(i) IN GENERAL.—The term 'owner or operator' does not include a response action contractor (as defined in section 119(e)).

''(ii) LIABILITY LIMITATIONS.—A person described in clause (i) shall not, in the absence of negligence by the person, be considered to—

''(I) cause or contribute to any release or threatened release of a hazardous substance, pollutant, or contaminant;

''(II) arrange for disposal or treatment of a hazardous substance, pollutant, or contaminant;

''(III) arrange with a transporter for transport or disposal or treatment of a hazardous substance, pollutant, or contaminant; or

''(IV) transport a hazardous substance, pollutant, or contaminant.

''(iii) EXCEPTION.—This subparagraph does not apply to a person potentially responsible under section 106 or 107 other than a person associated solely with the provision of a response action or a service or equipment ancillary to a response action.''.

(b) NATIONAL UNIFORM NEGLIGENCE STANDARD.—Section 119(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(a)) is amended—

(1) in paragraph (1) by striking ''title or under any other Federal law'' and inserting ''title or under any other Federal or State law''; and

(2) in paragraph (2)—

(A) by striking ''(2) NEGLIGENCE, ETC.—Paragraph (1)'' and inserting the following:

''(2) NEGLIGENCE AND INTENTIONAL MISCONDUCT; APPLICATION OF STATE LAW.—

''(A) NEGLIGENCE AND INTENTIONAL MISCONDUCT.—

''(i) IN GENERAL.—Paragraph (1)''; and

(B) by adding at the end the following:

''(ii) STANDARD.—Conduct under clause (i) shall be evaluated based on the generally accepted standards and practices in effect at the time and place at which the conduct occurred.

''(iii) PLAN.—An activity performed in accordance with a plan that was approved by the Administrator shall not be considered to constitute negligence under clause (i).

''(B) APPLICATION OF STATE LAW.—Paragraph (1) shall not apply in determining the liability of a response action contractor under the law of a State if the State has adopted by statute a law determining the liability of a response action contractor.''.

(c) EXTENSION OF INDEMNIFICATION AUTHORITY.—Section 119(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(1)) is amended by adding at the end the following: ''The agreement may apply to a claim for negligence arising under Federal or State law.''.

(d) INDEMNIFICATION DETERMINATIONS.—Section 119(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)) is amended by striking paragraph (4) and inserting the following:

''(4) DECISION TO INDEMNIFY.—

''(A) IN GENERAL.—For each response action contract for a vessel or facility, the Administrator shall make a decision whether to enter into an indemnification agreement with a response action contractor.

''(B) STANDARD.—The Administrator shall enter into an indemnification agreement to the extent that the potential liability (including the risk of harm to public health, safety, environment, and property) involved in a response action exceed or are not covered by insurance available to the contractor at the time at which the response action contract is entered into that is likely to provide adequate long-term protection to the public for the potential liability on fair and reasonable terms (including consideration of premium, policy terms, and deductibles).

''(C) DILIGENT EFFORTS.—The Administrator shall enter into an indemnification agreement only if the Administrator determines that the response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

''(D) CONTINUED DILIGENT EFFORTS.—An indemnification agreement shall require the response action contractor to continue, not more frequently than annually, to make diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

''(E) LIMITATIONS ON INDEMNIFICATION.—An indemnification agreement provided under this subsection shall include deductibles and shall place limits on the amount of indemnification made available in amounts determined by the contracting agency to be appropriate in light of the unique risk factors associated with the cleanup activity.''.

(e) INDEMNIFICATION FOR THREATENED RELEASES.—Section 119(c)(5)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(5)(A)) is amended by inserting ''or threatened release'' after ''release'' each place it appears.

(f) EXTENSION OF COVERAGE TO ALL RESPONSE ACTIONS.—Section 119(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(1)) is amended—

(1) in subparagraph (D) by striking ''carrying out an agreement under section 106 or 122''; and

(2) in the matter following subparagraph (D)—

(A) by striking ''any remedial action under this Act at a facility listed on the National Priorities List, or any removal under this Act,'' and inserting ''any response action,''; and

(B) by inserting before the period at the end the following: ''or to undertake appropriate action necessary to protect and restore any natural resource damaged by the release or threatened release''.

(g) DEFINITION OF RESPONSE ACTION CONTRACTOR.—Section 119(e)(2)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(2)(A)(i)) is amended by striking ''and is carrying out such contract'' and inserting ''covered by this section and any person (including any subcontractor) hired by a response action contractor''.

(h) SURETY BONDS.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended—

(1) in subsection (e)(2)(C) by striking '', and before January 1, 1996,''; and

(2) in subsection (g)(5) by striking '', or after December 31, 1995''.

(i) NATIONAL UNIFORM STATUTE OF REPOSE.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended by adding at the end the following:

''(h) LIMITATION ON ACTIONS AGAINST RESPONSE ACTION CONTRACTORS.—

''(1) IN GENERAL.—No action may be brought as a result of the performance of services under a response contract against a response action contractor after the date that is 7 years after the date of completion of work at any facility under the contract to recover—

''(A) injury to property, real or personal;

''(B) personal injury or wrongful death;

''(C) other expenses or costs arising out of the performance of services under the contract; or

''(D) contribution or indemnity for damages sustained as a result of an injury described in subparagraphs (A) through (C).

''(2) EXCEPTION.—Paragraph (1) does not bar recovery for a claim caused by the conduct of the response action contractor that is grossly negligent or that constitutes intentional misconduct.

''(3) INDEMNIFICATION.—This subsection does not affect any right of indemnification that a response action contractor may have under this section or may acquire by contract with any person.

''(i) STATE STANDARDS OF REPOSE.—Subsections (a)(1) and (h) shall not apply in determining the liability of a response action contractor if the State has enacted a statute of repose determining the liability of a response action contractor.''.

SEC. 505. RELEASE OF EVIDENCE.

(a) TIMELY ACCESS TO INFORMATION FURNISHED UNDER SECTION 104(e).—Section 104(e)(7)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(e)(7)(A)) is amended by inserting after ''shall be available to the public'' the following: ''not later than 14 days after the records, reports, or information is obtained''.

(b) REQUIREMENT TO PROVIDE POTENTIALLY RESPONSIBLE PARTIES EVIDENCE OF LIABILITY.—

(1) ABATEMENT ACTIONS.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended—

(A) by striking ''(a) In addition'' and inserting the following: ''(a) ORDER.—''

''(1) IN GENERAL.—In addition''; and

(B) by adding at the end the following:

''(2) CONTENTS OF ORDER.—An order under paragraph (1) shall provide information concerning the evidence that indicates that each element of liability described in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.''.

(2) SETTLEMENTS.—Section 122(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(e)(1)) is amended by inserting after subparagraph (C) the following:

''(D) For each potentially responsible party, the evidence that indicates that each element of liability contained in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.''.

SEC. 506. CONTRIBUTION PROTECTION.

Section 113(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(2)) is amended in the first sentence by inserting ''or cost recovery'' after ''contribution''.

SEC. 507. TREATMENT OF RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS AS OWNERS OR OPERATORS.

(a) DEFINITION.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) (as amended by section 502(a)) is amended by adding at the end the following:

''(I) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—The term 'owner or operator' includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, or educational purposes and that holds legal or equitable title to a vessel or facility.''.

(b) LIMITATION ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 501(b)) is amended by adding at the end the following:

''(u) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—

''(1) LIMITATION ON LIABILITY.—Subject to paragraph (2), if an organization described in section 101(20)(I) holds legal or equitable title to a vessel or facility as a result of a charitable gift that is allowable as a deduction under section 170, 2055, or 2522 of the Internal Revenue Code of 1986 (determined without regard to dollar limitations), the liability of the organization shall be limited to the lesser of the fair market value of the vessel or facility or the actual proceeds of the sale of the vessel or facility received by the organization.

''(2) CONDITIONS.—In order for an organization described in section 101(20)(I) to be eligible for the limited liability described in paragraph (1), the organization shall—

''(A) provide full cooperation, assistance, and vessel or facility access to persons authorized to conduct response actions at the vessel or facility, including the cooperation and access necessary for the installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the vessel or facility;

''(B) provide full cooperation and assistance to the United States in identifying and locating persons who recently owned, operated, or otherwise controlled activities at the vessel or facility;

''(C) establish by a preponderance of the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility; and

''(D) establish by a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.

''(3) LIMITATION.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(I) that meets the conditions specified in paragraph (2).''.

SEC. 508. COMMON CARRIERS.

Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking ''a published tariff and acceptance'' and inserting ''a contract''.

SEC. 509. LIMITATION ON LIABILITY OF RAILROAD OWNERS.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 507(b)) is amended by adding at the end the following:

''(v) LIMITATION ON LIABILITY OF RAILROAD OWNERS.—Notwithstanding subsection (a)(1), a person that does not impede the performance of a response action or natural resource restoration shall not be liable under this Act to the extent that liability is based solely on the status of the person as a railroad owner or operator of a spur track, including a spur track over land subject to an easement, to a facility that is owned or operated by a person that is not affiliated with the railroad owner or operator, if—

''(1) the spur track provides access to a main line or branch line track that is owned or operated by the railroad;

''(2) the spur track is 10 miles long or less; and

''(3) the railroad owner or operator does not cause or contribute to a release or threatened release at the spur track.''.

SEC. 510. LIABILITY OF RECYCLERS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 501(a)) is amended by adding at the end the following:

''(47) RECYCLABLE MATERIAL.—The term 'recyclable material'—

''(A) means—

''(i) scrap glass, paper, plastic, rubber, or textile;

''(ii) scrap metal; and

''(iii) a spent battery; and

''(B) includes small amounts of any type of material that is incident to or adherent to material described in subparagraph (A) as a result of the normal and customary use of the material prior to the exhaustion of the useful life of the material.

''(48) SCRAP METAL.—The term 'scrap metal'—

''(A) means—

''(i) scrap metal (as that term is defined by the Administrator for purposes of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) in section 261.1(c)(6) of title 40, Code of Federal Regulations, or any successor regulation); and

''(ii) a metal byproduct (such as slag, skimming, or dross) that is not 1 of the primary products of, and is not solely or separately produced by, a production process; but

''(B) does not include—

''(i) any steel shipping container that—

''(I) has (or, when intact, had) a capacity of not less than 30 and not more than 3,000 liters; and

''(II) has any hazardous substance contained in or adherent to it (not including any small pieces of metal that may remain after a hazardous substance has been removed from the container or any alloy or other material that may be chemically or metallurgically bonded in the steel itself); or

''(ii) any material described in subparagraph (A) that the Administrator may by regulation exclude from the meaning of the term based on a finding that inclusion of the material within the meaning of the term would result in a threat to human health or the environment.''.

(b) LIABILITY OF RECYCLERS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 509) is amended by adding at the end the following:

''(w) LIABILITY OF RECYCLERS.—

''(1) APPLICABILITY OF SUBSECTION.—Subject to paragraph (10), this subsection shall be applied to determine the liability of any person with respect to a transaction engaged in before, on, or after the date of enactment of this subsection.

''(2) RELIEF FROM LIABILITY.—Except as provided in paragraph (6), a person that arranges for the recycling of recyclable material shall not be liable under subsection (a)(1) (C) or (D).

''(3) SCRAP GLASS, PAPER, PLASTIC, RUBBER, OR TEXTILE.—For the purposes of paragraph (2), a person shall be considered to arrange for the recycling of scrap glass, paper, plastic, rubber, or textile if the person sells or otherwise arranges for the recycling of the recyclable material in a transaction in which, at the time of the transaction—

''(A) the recyclable material meets a commercial specification;

''(B) a market exists for the recyclable material;

''(C) a substantial portion of the recyclable material is made available for use as a feedstock for the manufacture of a new saleable product; and

''(D)(i) the recyclable material is a replacement or substitute for a virgin raw material; or

''(ii) the product to be made from the recyclable material is a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

''(4) SCRAP METAL.—For the purposes of paragraph (2), a person shall be considered to arrange for the recycling of scrap metal if the person sells or otherwise arranges for the recycling of the scrap metal in a transaction in which, at the time of the transaction—

''(A) the conditions stated in subparagraphs (A) through (D) of paragraph (3) are met; and

''(B) in the case of a transaction that occurs after the effective date of a standard, established by the Administrator by regulation under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), regarding the storage, transport, management, or other activity associated with the recycling of scrap metal, the person is in compliance with the standard.

''(5) SPENT BATTERIES.—

''(A) IN GENERAL.—For the purposes of paragraph (1), a person shall be considered to arrange for the recycling of a spent lead-acid battery, nickel-cadmium battery, or other battery if the person sells or otherwise arranges for the recycling of the battery in a transaction in which, at the time of the transaction—

''(i) the conditions stated in subparagraphs (A) through (D) of paragraph (3) are met;

''(ii) the person does not reclaim the valuable components of the battery; and

''(iii) in the case of a transaction that occurs after the effective date of a standard, established by the Administrator by regulation under authority of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or the Mercury-Containing and Rechargeable Battery Management Act), regarding the storage, transport, management, or other activity associated with the recycling of batteries, the person is in compliance with the standard.

''(B) TOLLING ARRANGEMENTS.—A person that, by contract, arranges for reclamation and smelting of a battery by a third party not a party to a transaction under subparagraph (A) and receives from the third party material reclaimed from the battery shall not, by reason of the receipt of the reclaimed material, be considered to reclaim the valuable components of the battery for purposes of subparagraph (A)(ii).

''(6) GROUNDS FOR ESTABLISHING LIABILITY.—

''(A) IN GENERAL.—A person that arranges for the recycling of recyclable material that would be liable under subsection (a)(1) (C) or (D) but for paragraph (2) shall be liable notwithstanding that paragraph if—

''(i) the person has an objectively reasonable basis to believe at the time of the recycling transaction that—

''(I) the recyclable material will not be recycled;

''(II) the recyclable material will be burned as fuel, for energy recovery or incineration;

''(III) the consuming facility is not in compliance with a substantive provision (including a requirement to obtain a permit for handling, processing, reclamation, or other management activity associated with recyclable material) of any Federal, State, or local environmental law (including a regulation), or a compliance order or decree issued under such a law, applicable to the handling, processing, reclamation, or other management activity associated with the recyclable material; or

''(IV) a hazardous substance has been added to the recyclable material for purposes other than processing for recycling;

''(ii) the person fails to exercise reasonable care with respect to the management or handling of the recyclable material (for which purpose a failure to adhere to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances shall be considered to be a failure to exercise reasonable care); or

''(iii) any item of the recyclable material contains—

''(I) polychlorinated biphenyls at a concentration in excess of 50 parts per million (or any different concentration specified in any applicable standard that may be issued under other Federal law after the date of enactment of this subsection); or

''(II) in the case of a transaction involving scrap paper, any concentration of a hazardous substance that the Administrator determines by regulation, issued after the date of enactment of this subsection and before the date of the transaction, to be likely to cause significant risk to human health or the environment as a result of its inclusion in the paper recycling process.

''(B) OBJECTIVELY REASONABLE BASIS FOR BELIEF.—Whether a person has an objectively reasonable basis for belief described in subparagraph (A)(i) shall be determined using criteria that include—

''(i) the size of the person's business;

''(ii) customary industry practices (including practices designed to minimize, through source control, contamination of recyclable material by hazardous substances);

''(iii) the price paid or received in the recycling transaction; and

''(iv) the ability of the person to detect the nature of the consuming facility's operations concerning handling, processing, or reclamation of the recyclable material or other management activities associated with the recyclable material.

''(7) REGULATIONS.—The Administrator may issue a regulation that clarifies the meaning of any term used in this subsection or by any other means makes clear the application of this subsection to any person.

''(8) LIABILITY FOR ATTORNEY'S FEES FOR CERTAIN ACTIONS.—A person that, after the date of enactment of this subsection, commences a civil action in contribution against a person that is not liable by operation of this subsection shall be liable to that person for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees.

''(9) RELATIONSHIP TO LIABILITY UNDER OTHER LAWS.—Nothing in this subsection shall affect—

''(A) liability under any other Federal, State, or local law (including a regulation); or

''(B) the authority of the Administrator to issue regulations under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or any other law.

''(10) TRANSITION RULES.—

''(A) DECREE OR ORDER ENTERED PRIOR TO JANUARY 1, 1997.—This subsection shall not affect any judicial decree or order that was entered or any administrative order that became effective prior to January 1, 1997, unless, as of the date of enactment of this subsection, the judicial decree or order remained subject to appeal or the administrative order remained subject to judicial review.

''(B) DECREE OR ORDER ENTERED ON OR AFTER JANUARY 1, 1997.—Any consent decree with the United States, administrative order, or judgment in favor of the United States that was entered, or in the case of an administrative order, became effective, on or after January 1, 1997, and before the date of enactment of this subsection shall be reopened at the request of any party to the recycling transaction for a determination of the party's liability to the United States based on this subsection.

''(C) EFFECT ON NONRECYCLERS.—

''(i) COSTS BORNE BY THE UNITED STATES.—All costs attributable to a recycling transaction that, absent this subsection, would be borne by a person that is relieved of liability (in whole or in part) by this subsection shall be borne by the United States, to the extent that the person is relieved of liability.

''(ii) NO RECOVERY FROM THE UNITED STATES.—Notwithstanding clause (i), no person shall be entitled to recover any sums paid to the United States prior to the date of enactment of this subsection in satisfaction of any liability attributable to a recycling transaction.

''(D) CONTRIBUTION AMONG PARTIES TO RECYCLING TRANSACTIONS.—Notwithstanding the other provisions of this subsection, a person that is relieved of liability by this subsection, but incurred response costs for a response action taken prior to the date of enactment of this subsection, may bring a civil action for contribution for the costs against—

''(i) any person that is liable under section 107(a)(1) (A) or (B); or

''(ii) any person that, before the date of enactment of this subsection—

''(I) received and failed to comply with an administrative order issued under section 104 or 106; or

''(II) received and did not accept a written offer from the United States to enter into a consent decree or administrative order.''.

TITLE VI—FEDERAL FACILITIES

SEC. 601. TRANSFER OF AUTHORITIES.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by striking subsection (g) and inserting the following:

''(g) TRANSFER OF AUTHORITIES.—

''(1) DEFINITIONS.—In this section:

''(A) INTERAGENCY AGREEMENT.—The term 'interagency agreement' means an interagency agreement under this section.

''(B) TRANSFER AGREEMENT.—The term 'transfer agreement' means a transfer agreement under paragraph (3).

''(C) TRANSFEREE STATE.—The term 'transferee State' means a State to which authorities have been transferred under a transfer agreement.

''(2) STATE APPLICATION FOR TRANSFER OF AUTHORITIES.—A State may apply to the Administrator to exercise the authorities vested in the Administrator under this Act at any facility located in the State that is—

''(A) owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government); and

''(B) listed on the National Priorities List.

''(3) TRANSFER OF AUTHORITIES.—

''(A) DETERMINATIONS.—The Administrator shall enter into a transfer agreement to transfer to a State the authorities described in paragraph (2) if the Administrator determines that—

''(i) the State has the ability to exercise such authorities in accordance with this Act, including adequate legal authority, financial and personnel resources, organization, and expertise;

''(ii) the State has demonstrated experience in exercising similar authorities;

''(iii) the State has agreed to be bound by all Federal requirements and standards under section 133 governing the design and implementation of the facility evaluation, remedial action plan, and remedial design; and

''(iv) the State has agreed to abide by the terms of any interagency agreement or agreements covering the Federal facility or facilities with respect to which authorities are being transferred in effect at the time of the transfer of authorities.

''(B) CONTENTS OF TRANSFER AGREEMENT.—A transfer agreement—

''(i) shall incorporate the determinations of the Administrator under subparagraph (A); and

''(ii) in the case of a transfer agreement covering a facility with respect to which there is no interagency agreement that specifies a dispute resolution process, shall require that within 120 days after the effective date of the transfer agreement, the State shall agree with the head of the Federal department, agency, or instrumentality that owns or operates the facility on a process for resolution of any disputes between the State and the Federal department, agency, or instrumentality regarding the selection of a remedial action for the facility; and

''(iii) shall not impose on the transferee State any term or condition other than that the State meet the requirements of subparagraph (A).

''(4) EFFECT OF TRANSFER.—

''(A) STATE AUTHORITIES.—A transferee State—

''(i) shall not be deemed to be an agent of the Administrator but shall exercise the authorities transferred under a transfer agreement in the name of the State; and

''(ii) shall have exclusive authority to exercise authorities that have been transferred.

''(B) EFFECT ON INTERAGENCY AGREEMENTS.—Nothing in this subsection shall require, authorize, or permit the modification or revision of an interagency agreement covering a facility with respect to which authorities have been transferred to a State under a transfer agreement (except for the substitution of the transferee State for the Administrator in the terms of the interagency agreement, including terms stating obligations intended to preserve the confidentiality of information) without the written consent of the Governor of the State and the head of the department, agency, or instrumentality.

''(5) SELECTED REMEDIAL ACTION.—The remedial action selected for a facility under section 133 by a transferee State shall constitute the only remedial action required to be conducted at the facility, and the transferee State shall be precluded from enforcing any other remedial action requirement under Federal or State law, except for—

''(A) any corrective action under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that was initiated prior to the date of enactment of this subsection; and

''(B) any remedial action in excess of remedial action under section 133 that the State selects in accordance with paragraph (10).

''(6) DEADLINE.—

''(A) IN GENERAL.—The Administrator shall make a determination on an application by a State under paragraph (2) not later than 120 days after the date on which the Administrator receives the application.

''(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of an application within the time period stated in subparagraph (A), the application shall be deemed to have been granted.

''(7) RESUBMISSION OF APPLICATION.—

''(A) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

''(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the time period stated in paragraph (6)(A), the resubmitted application shall be deemed to have been granted.

''(8) JUDICIAL REVIEW.—The State (but no other person) shall be entitled to judicial review under section 113(b) of a disapproval of a resubmitted application.

''(9) WITHDRAWAL OF AUTHORITIES.—The Administrator may withdraw the authorities transferred under a transfer agreement in whole or in part if the Administrator determines that the State—

''(A) is exercising the authorities, in whole or in part, in a manner that is inconsistent with the requirements of this Act;

''(B) has violated the transfer agreement, in whole or in part; or

''(C) no longer meets one of the requirements of paragraph (3).

''(10) STATE COST RESPONSIBILITY.—The State may require a remedial action that exceeds the remedial action selection requirements of section 121 if the State pays the incremental cost of implementing that remedial action over the most cost-effective remedial action that would result from the application of section 133.

''(11) DISPUTE RESOLUTION AND ENFORCEMENT.—

''(A) DISPUTE RESOLUTION.—

''(i) FACILITIES COVERED BY BOTH A TRANSFER AGREEMENT AND AN INTERAGENCY AGREEMENTS.—In the case of a facility with respect to which there is both a transfer agreement and an interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in the dispute resolution process provided for in the interagency agreement, except that the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

''(ii) FACILITIES COVERED BY A TRANSFER AGREEMENT BUT NOT AN INTERAGENCY AGREEMENT.—In the case of a facility with respect to which there is a transfer agreement but no interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in dispute resolution as provided in paragraph (3)(B)(ii) under which the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

''(iii) FAILURE TO RESOLVE.—If no agreement is reached between the head of the Federal department, agency, or instrumentality and the Governor in a dispute resolution process under clause (i) or (ii), the Governor of the State shall make the final determination regarding selection of a remedial action. To compel implementation of the State's selected remedy, the State must bring a civil action in United States district court.

''(B) ENFORCEMENT.—

''(i) AUTHORITY; JURISDICTION.—An interagency agreement with respect to which there is a transfer agreement or an order issued by a transferee State shall be enforceable by a transferee State or by the Federal department, agency, or instrumentality that is a party to the interagency agreement only in the United States district court for the district in which the facility is located.

''(ii) REMEDIES.—The district court shall—

''(I) enforce compliance with any provision, standard, regulation, condition, requirement, order, or final determination that has become effective under the interagency agreement;

''(II) impose any appropriate civil penalty provided for any violation of an interagency agreement, not to exceed $25,000 per day;

''(III) compel implementation of the selected remedial action; and

''(IV) review a challenge by the Federal department, agency, or instrumentality to the remedial action selected by the State under this section, in accordance with section 113(j).

''(12) COMMUNITY PARTICIPATION.—If, prior to the date of enactment of this section, a Federal department, agency, or instrumentality had established for a facility covered by a transfer agreement a facility-specific advisory board or other community-based advisory group (designated as a 'site-specific advisory board', a 'restoration advisory board', or otherwise), and the Administrator determines that the board or group is willing and able to perform the responsibilities of a community response organization under section 117(e)(2), the board or group—

''(A) shall be considered to be a community response organization for the purposes of section 117 (e) (2), (3), (4), and (9), and (g) and sections 131 and 133; but

''(B) shall not be required to comply with, and shall not be considered to be a community response organization for the purposes of, section 117 (e) (1), (5), (6), (7), or (8) or (f).''.

SEC. 602. LIMITATION ON CRIMINAL LIABILITY OF FEDERAL OFFICERS, EMPLOYEES, AND AGENTS.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by adding at the end the following:

''(k) CRIMINAL LIABILITY.—Notwithstanding any other provision of this Act or any other law, an officer, employee, or agent of the United States shall not be held criminally liable for a failure to comply, in any fiscal year, with a requirement to take a response action at a facility that is owned or operated by a department, agency, or instrumentality of the United States, under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or any other Federal or State law unless—

''(1) the officer, employee, or agent has not fully performed any direct responsibility or delegated responsibility that the officer, employee, or agent had under Executive Order 12088 (42 U.S.C. 4321 note) or any other delegation of authority to ensure that a request for funds sufficient to take the response action was included in the President's budget request under section 1105 of title 31, United States Code, for that fiscal year; or

''(2) appropriated funds were available to pay for the response action.''.

SEC. 603. INNOVATIVE TECHNOLOGIES FOR REMEDIAL ACTION AT FEDERAL FACILITIES.

(a) IN GENERAL.—Section 311 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660) is amended by adding at the end the following:

''(h) FEDERAL FACILITIES.—

''(1) DESIGNATION.—The President may designate a facility that is owned or operated by any department, agency, or instrumentality of the United States, and that is listed or proposed for listing on the National Priorities List, to facilitate the research, development, and application of innovative technologies for remedial action at the facility.

''(2) USE OF FACILITIES.—

''(A) IN GENERAL.—A facility designated under paragraph (1) shall be made available to Federal departments and agencies, State departments and agencies, and public and private instrumentalities, to carry out activities described in paragraph (1).

''(B) COORDINATION.—The Administrator—

''(i) shall coordinate the use of the facilities with the departments, agencies, and instrumentalities of the United States; and

''(ii) may approve or deny the use of a particular innovative technology for remedial action at any such facility.

''(3) CONSIDERATIONS.—

''(A) EVALUATION OF SCHEDULES AND PENALTIES.—In considering whether to permit the application of a particular innovative technology for remedial action at a facility designated under paragraph (1), the Administrator shall evaluate the schedules and penalties applicable to the facility under any agreement or order entered into under section 120.

''(B) AMENDMENT OF AGREEMENT OR ORDER.—If, after an evaluation under subparagraph (A), the Administrator determines that there is a need to amend any agreement or order entered into pursuant to section 120, the Administrator shall comply with all provisions of the agreement or order, respectively, relating to the amendment of the agreement or order.''.

(b) REPORT TO CONGRESS.—Section 311(e) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(e)) is amended—

(1) by striking ''At the time'' and inserting the following:

''(1) IN GENERAL.—At the time''; and

(2) by adding at the end the following:

''(2) ADDITIONAL INFORMATION.—A report under paragraph (1) shall include information on the use of facilities described in subsection (h)(1) for the research, development, and application of innovative technologies for remedial activity, as authorized under subsection (h).''.

TITLE VII—NATURAL RESOURCE DAMAGES

SEC. 701. RESTORATION OF NATURAL RESOURCES.

Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

(1) by inserting ''NATURAL RESOURCE DAMAGES.—'' after ''(f)'';

(2) by striking ''(1) NATURAL RESOURCES LIABILITY.—In the case'' and inserting the following:

''(1) LIABILITY.—

''(A) IN GENERAL.—In the case''; and

(3) in paragraph (1)(A), as designated by paragraph (2)—

(A) by inserting after the fourth sentence the following: ''Sums recovered by an Indian tribe as trustee under this subsection shall be available for use only for restoration, replacement, or acquisition of the equivalent of such natural resources by the Indian tribe. A restoration, replacement, or acquisition conducted by the United States, a State, or an Indian tribe shall proceed only if it is technologically feasible from an engineering perspective at a reasonable cost and consistent with all known or anticipated response actions at or near the facility.''; and

(B) by striking ''The measure of damages in any action'' and all that follows through the end of the paragraph and inserting the following:

''(B) LIMITATIONS ON LIABILITY.—

''(i) MEASURE OF DAMAGES.—The measure of damages in any action for damages for injury to, destruction of, or loss of natural resources shall be limited to—

''(I) the reasonable costs of restoration, replacement, or acquisition of the equivalent of natural resources that suffer injury, destruction, or loss caused by a release; and

''(II) the reasonable costs of assessing damages.

''(ii) NONUSE VALUES.—There shall be no recovery under this Act for any impairment of nonuse values.

''(iii) NO DOUBLE RECOVERY.—A person that obtains a recovery of damages, response costs, assessment costs, or any other costs under this Act for the costs of restoring an injury to or destruction or loss of a natural resource (including injury assessment costs) shall not be entitled to recovery under this Act or any other Federal or State law for the same injury to or destruction or loss of the natural resource.

''(iv) RESTRICTIONS ON RECOVERY.—

''(I) LIMITATION ON LOST USE DAMAGES.—There shall be no recovery from any person under this section for the costs of a loss of use of a natural resource for a natural resource injury, destruction, or loss that occurred before December 11, 1980.

''(II) RESTORATION, REPLACEMENT, OR ACQUISITION.—There shall be no recovery from any person under this section for the costs of restoration, replacement, or acquisition of the equivalent of a natural resource if the natural resource injury, destruction, or loss for which the restoration, replacement, or acquisition is sought and the release of the hazardous substance from which the injury resulted occurred wholly before December 11, 1980.''.

SEC. 702. ASSESSMENT OF INJURY TO AND RESTORATION OF NATURAL RESOURCES.

(a) NATURAL RESOURCE INJURY AND RESTORATION ASSESSMENTS.—Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)) is amended by striking subparagraph (C) and inserting the following:

''(C) NATURAL RESOURCE INJURY AND RESTORATION ASSESSMENT.—

''(i) REGULATION.—A natural resource injury and restoration assessment conducted for the purposes of this Act made by a Federal, State, or tribal trustee shall be performed, to the extent practicable, in accordance with—

''(I) the regulation issued under section 301(c); and

''(II) generally accepted scientific and technical standards and methodologies to ensure the validity and reliability of assessment results.

''(ii) FACILITY-SPECIFIC CONDITIONS.—Injury assessment, restoration planning, and quantification of restoration costs shall, to the extent practicable, be based on facility-specific information.

''(iii) RECOVERABLE COSTS.—A trustee's claim for assessment costs—

''(I) may include only—

''(aa) costs that arise from work performed for the purpose of assessing injury to a natural resource to support a claim for restoration of the natural resource; and

''(bb) costs that arise from developing and evaluating a reasonable range of alternative restoration measures; but

''(II) may not include the costs of conducting any type of study relying on the use of contingent valuation methodology.

''(iv) PAYMENT PERIOD.—In a case in which injury to or destruction or loss of a natural resource was caused by a release that occurred over a period of years, payment of damages shall be permitted to be made over a period of years that is appropriate in view of the period of time over which the damages occurred, the amount of the damages, the financial ability of the responsible party to pay the damages, and the time period over which and the pace at which expenditures are expected to be made for restoration, replacement, and acquisition activities.

''(v) TRUSTEE RESTORATION PLANS.—

''(I) ADMINISTRATIVE RECORD.—Participating natural resource trustees may designate a lead administrative trustee or trustees. The lead administrative trustee may establish an administrative record on which the trustees will base the selection of a plan for restoration of a natural resource. The restoration plan shall include a determination of the nature and extent of the natural resource injury. The administrative record shall be made available to the public at or near the facility at which the release occurred.

''(II) PUBLIC PARTICIPATION.—The Administrator shall issue a regulation for the participation of interested persons, including potentially responsible parties, in the development of the administrative record on which the trustees will base selection of a restoration plan and on which judicial review of restoration plans will be based. The procedures for participation shall include, at a minimum, each of the requirements stated in section 113(k)(2)(B).''.

(b) REGULATIONS.—Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651) is amended by striking subsection (c) and inserting the following:

''(c) REGULATIONS FOR INJURY AND RESTORATION ASSESSMENTS.—

''(1) IN GENERAL.—The President, acting through Federal officials designated by the National Contingency Plan under section 107(f)(2), shall issue a regulation for the assessment of injury to natural resources and the costs of restoration of natural resources (including the costs of assessment) for the purposes of this Act and for determination of the time periods in which payment of damages will be required.

''(2) CONTENTS.—The regulation under paragraph (1) shall—

''(A) specify protocols for conducting assessments in individual cases to determine the injury, destruction, or loss of natural resources;

''(B) identify the best available procedures to determine the reasonable costs of restoration and assessment;

''(C) take into consideration the ability of a natural resource to recover naturally and the availability of replacement or alternative resources;

''(D) provide for the designation of a single lead Federal decisionmaking trustee for each facility at which an injury to natural resources has occurred within 180 days after the date of first notice to the responsible parties that an assessment of injury and restoration alternatives will be made; and

''(E) set forth procedures under which—

''(i) all pending and potential trustees identify the injured natural resources within their respective trust responsibilities, and the authority under which such responsibilities are established, as soon as practicable after the date on which a release occurs;

''(ii) assessment of injury and restoration alternatives will be coordinated to the greatest extent practicable between the lead Federal decisionmaking trustee and any present or potential State or tribal trustees, as applicable; and

''(iii) time periods for payment of damages in accordance with section 107(f)(2)(C)(iv) shall be determined.

''(3) DEADLINE FOR ISSUANCE OF REGULATION; PERIODIC REVIEW.—The regulation under paragraph (1) shall be issued not later than 1 year after the date of enactment of the Superfund Cleanup Acceleration Act of 1997 and shall be reviewed and revised as appropriate every 5 years.''.

SEC. 703. CONSISTENCY BETWEEN RESPONSE ACTIONS AND RESOURCE RESTORATION STANDARDS.

(a) RESTORATION STANDARDS AND ALTERNATIVES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended by adding at the end the following:

''(3) COMPATIBILITY WITH REMEDIAL ACTION.—Both response actions and restoration measures may be implemented at the same facility, or to address releases from the same facility. Such response actions and restoration measures shall not be inconsistent with

one another and shall be implemented, to the extent practicable, in a coordinated and integrated manner.''.

(b) CONSIDERATION OF NATURAL RESOURCES IN RESPONSE ACTIONS.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) (as amended by section 402(1)) is amended by adding at the end the following:

''(6) COORDINATION.—In evaluating and selecting remedial actions, the Administrator shall take into account the potential for injury to a natural resource resulting from such actions.''.

SEC. 704. CONTRIBUTION.

Subparagraph (A) of section 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(1)) is amended in the third sentence by inserting ''and natural resource damages'' after ''costs''.

TITLE VIII—MISCELLANEOUS

SEC. 801. RESULT-ORIENTED CLEANUPS.

(a) AMENDMENT.—Section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) is amended—

(1) by striking ''and'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; and''; and

(3) by inserting after paragraph (10) the following:

''(11) procedures for conducting response actions, including facility evaluations, remedial investigations, feasibility studies, remedial action plans, remedial designs, and remedial actions, which procedures shall—

''(A) use a results-oriented approach to minimize the time required to conduct response measures and reduce the potential for exposure to the hazardous substances, pollutants, and contaminants in an efficient, timely, and cost-effective manner;

''(B) require, at a minimum, expedited facility evaluations and risk assessments, timely negotiation of response action goals, a single engineering study, streamlined oversight of response actions, and consultation with interested parties throughout the response action process;

''(C) be subject to the requirements of sections 117, 120, 121, and 133 in the same manner and to the same degree as those sections apply to response actions; and

''(D) be required to be used for each remedial action conducted under this Act unless the Administrator determines that their use would not be cost-effective or result in the selection of a response action that achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).''.

(b) AMENDMENT OF NATIONAL HAZARDOUS SUBSTANCE RESPONSE PLAN.—Not later than 180 days after the date of enactment of this Act, the Administrator, after notice and opportunity for public comment, shall amend the National Hazardous Substance Response Plan under section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) to include the procedures required by the amendment made by subsection (a).

SEC. 802. NATIONAL PRIORITIES LIST.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) (as amended by section 407(a)(2)) is amended by adding at the end the following:

''(i) NATIONAL PRIORITIES LIST.—

''(1) LIMITATION.—

''(A) IN GENERAL.—After the date of the enactment of this subsection, the President may add vessels and facilities to the National Priorities List only in accordance with the following schedule:

''(i) Not more than 30 vessels and facilities in 1997.

''(ii) Not more than 25 vessels and facilities in 1998.

''(iii) Not more than 20 vessels and facilities in 1999.

''(iv) Not more than 15 vessels and facilities in 2000.

''(v) Not more than 10 vessels and facilities in any year after 2000.

''(B) RELISTING.—The relisting of a vessel or facility under section 130(d)(5)(C)(ii) shall not be considered to be an addition to the National Priorities List for purposes of this subsection.

''(2) PRIORITIZATION.—The Administrator shall prioritize the vessels and facilities added under paragraph (1) on a national basis in accordance with the threat to human health and the environment presented by each of the vessels and facilities, respectively.

''(3) STATE CONCURRENCE.—A vessel or facility may be added to the National Priorities List under paragraph (1) only with the concurrence of the Governor of the State in which the vessel or facility is located.''.

SEC. 803. OBLIGATIONS FROM THE FUND FOR RESPONSE ACTIONS.

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C) by striking ''consistent with the remedial action to be taken'' and inserting ''not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility.'';

(2) by striking ''$2,000,000'' and inserting ''$4,000,000''; and

(3) by striking ''12 months'' and inserting ''2 years''.

TITLE IX—FUNDING

Subtitle A—General Provisions

SEC. 901. AUTHORIZATION OF APPROPRIATIONS FROM THE FUND.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking ''not more than $8,500,000,000 for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994'' and inserting ''a total of $8,500,000,000 for fiscal years 1998, 1999, 2000, 2001, and 2002''.

SEC. 902. ORPHAN SHARE FUNDING.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 301(c), is amended by inserting after paragraph (8) the following:

''(9) ORPHAN SHARE FUNDING.—Payment of orphan shares under section 136.''.

SEC. 903. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (m) and inserting the following:

''(m) HEALTH AUTHORITIES.—There are authorized to be appropriated from the Fund to the Secretary of Health and Human Services to be used for the purposes of carrying out the activities described in subsection (c)(4) and the activities described in section 104(i), $50,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002. Funds appropriated under this subsection for a fiscal year, but not obligated by the end of the fiscal year, shall be returned to the Fund.''.

SEC. 904. LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (n) and inserting the following:

''(n) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

''(1) ALTERNATIVE OR INNOVATIVE TECHNOLOGIES RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

''(A) LIMITATION.—For each of fiscal years 1998, 1999, 2000, 2001, and 2002, not more than $30,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) other than basic research.

''(B) CONTINUING AVAILABILITY.—Such amounts shall remain available until expended.

''(2) HAZARDOUS SUBSTANCE RESEARCH, DEMONSTRATION, AND TRAINING.—

''(A) LIMITATION.—From the amounts available in the Fund, not more than the following amounts may be used for the purposes of section 311(a):

''(i) For fiscal year 1998, $37,000,000.

''(ii) For fiscal year 1999, $39,000,000.

''(iii) For fiscal year 2000, $41,000,000.

''(iv) For each of fiscal years 2001 and 2002, $43,000,000.

''(B) FURTHER LIMITATION.—No more than 15 percent of such amounts shall be used for training under section 311(a) for any fiscal year.

''(3) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—For each of fiscal years 1998, 1999, 2000, 2001, and 2002, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d).''.

SEC. 905. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

''(1) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund—

''(i) for fiscal year 1998, $250,000,000;

''(ii) for fiscal year 1999, $250,000,000;

''(iii) for fiscal year 2000, $250,000,000;

''(iv) for fiscal year 2001, $250,000,000; and

''(v) for fiscal year 2002, $250,000,000.

''(B) ADDITIONAL AMOUNTS.—There is authorized to be appropriated to the Hazardous Substance Superfund for each such fiscal year an amount, in addition to the amount authorized by subparagraph (A), equal to so much of the aggregate amount authorized to be appropriated under this subsection and section 9507(b) of the Internal Revenue Code of 1986 as has not been appropriated before the beginning of the fiscal year.''.

SEC. 906. ADDITIONAL LIMITATIONS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) (as amended by section 102(c)) is amended by adding at the end the following:

''(t) COMMUNITY RESPONSE ORGANIZATION.—For the period commencing January 1, 1997, and ending September 30, 2002, not more than $15,000,000 of the amounts available in the Fund may be used to make grants under section 117(f) (relating to Community Response Organizations).

''(u) RECOVERIES.—Effective beginning January 1, 1997, any response cost recoveries collected by the United States under this Act

shall be credited as offsetting collections to the Superfund appropriations account.''.

SEC. 907. REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) (as amended by section 902) is amended by inserting after paragraph (9) the following:

''(10) REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.—If—

''(A) a potentially responsible party and the Administrator enter into a settlement under this Act under which the Administrator is reimbursed for the response costs of the Administrator; and

''(B) the Administrator determines, through a Federal audit of response costs, that the costs for which the Administrator is reimbursed—

''(i) are unallowable due to contractor fraud;

''(ii) are unallowable under the Federal Acquisition Regulation; or

''(iii) should be adjusted due to routine contract and Environmental Protection Agency response cost audit procedures,

a potentially responsible party may be reimbursed for those costs.''.

Mr. ABRAHAM. Mr. President, I would like to join the others on the Senate floor here today to congratulate Senator CHAFEE and Senator SMITH on the introduction of their Superfund reform legislation. As an original cosponsor of this legislation, I support their efforts to speed the clean-up of polluted sites across this country.

And while this legislation has provisions targeting those sites currently on the national priority list, I should point out it also has provisions to speed the remediation of less seriously contaminated sites—so-called brownfields.

I am someone who is deeply concerned about brownfields and the economic and environmental damage they impose on communities.

First, Senator CHAFEE, thank you very much for agreeing to speak with me on this very important issue. As the Senator knows, last year I introduced legislation along with Senator LIEBERMAN which would provide tax incentives for the remediation of brownfields. This legislation is very important to communities across the country, and I intend to reintroduce similar legislation this Congress. It is my understanding that the bill introduced today focuses, in part, on our brownfields problem.

Mr. CHAFEE. The Senator from Michigan is correct. The focus of the Environment and Public Works Committee will extend beyond the National Priorities List to include solutions to our national brownfields problem. And while my committee does not have jurisdiction over tax measures, I recognize the leadership exerted by Senator ABRAHAM to address the problem of brownfields and I hope to work with him on a variety of solutions to the environmental problems faced by this Nation's communities.

Mr. ABRAHAM. I thank the Senator and I yield the floor.

By Mr. NICKLES (for himself, Mr. GREGG, Mr. WARNER, Mr. LOTT, Mr. ALLARD, Mr. ASHCROFT, Mr. COVERDELL, Mr. CRAIG, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. KYL, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SMITH, Mr. THOMAS, Mr. THURMOND, Mr. COATS, and Mr. KEMPTHORNE):

S. 9. A bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization; to the Committee on Rules and Administration.

THE PAYCHECK PROTECTION ACT

Mr. NICKLES. Madam President, this bill, the Paycheck Protection Act, sponsored by myself, Senators GREGG, LOTT, INHOFE, HUTCHISON from Texas, COCHRAN, ROBERTS, HAGEL, SMITH from New Hampshire, and KEMPTHORNE, deals with making sure that no one is compelled to contribute to political campaigns with which they disagree. Senator FORD made an eloquent speech on campaign finance reform. I don't disagree with everything he said. I just disagree with parts of it.

Campaign reform is an issue a lot of us are going to be dealing with this year. It is important, in my opinion, Madam President, that we encourage people to participate in campaigns. We want more people all across the country to participate in the electoral process. It is a sad day when only half of the people vote in a Presidential election. Madam President, it is very important that nobody be compelled to contribute to a campaign with which they disagree. You might think, well, wait a minute, how in the world in 1997, in this day and age, would anybody be compelled to contribute to a campaign with which they disagree? But it happens. Unfortunately, Madam President, every week millions of Americans are having money taken out of their paycheck to contribute to candidates that they may well disagree with, but they didn't have a voice, a choice, or an option.

Madam President, that is wrong. I will tell you that the origin of the bill we are introducing came from a town meeting that I had, where an individual—a union member—stood up in a town meeting and said, ''I really resent the fact that my money is taken from me, without my vote, without my voice, without my option, and given to candidates and parties which I totally oppose.'' I said, ''I agree with you. We will try to remedy that.''

That should not happen in America. That is something that sounds like it might happen in some totalitarian state where moneys or assets are confiscated and some corrupt politician would use it against their will. It is happening today. Millions of Americans are finding part of their paychecks taken from them without their voice or choice and used for political purposes with which they disagree.

Madam President, this bill, the Paycheck Protection Act, which is sponsored by several of us, basically is very simple. It says that no individual, no employee working for a corporation, would be compelled to contribute to a political organization without their express consent. As a matter of fact, it says that no deduction from their wages would be used for political purposes unless they give prior written consent.

Consent is the big issue. If we are going to have campaign reform, I am going to tell my colleague, this is going to have to be part of the package.

This is America. No one should be compelled to contribute to political purposes for which they disagree. And that applies for an individual where maybe their company has a PAC (political action committee), and maybe the board of directors or the officers say, ''We want everybody to contribute.'' They can say what they want, but they cannot compel. No one should be compelled to contribute to a political organization, a political action committee, or to a labor organization against their will for political purposes. It is that simple.

As Thomas Jefferson said, ''To compel a man to furnish funds for the propagation of ideas he disbelieves or abhors . . . is sinful and tyrannical.''

We're not talking about nickels and dimes here, but untold millions of dollars in partisan political campaigns and propaganda. Since such funds are not required to be disclosed, it is impossible to determine the exact amount of this spending. However, estimates of this under-the-radar spending is somewhere between $300 million and $1 billion for this most recent election.

The way it is now, an employee paying dues to a labor organization has no choice over whether or not that labor organization can collect the money for politics. The only choice these employees have in the matter is to ask for a refund of the portion dues which is to be used for politics. This refund process is so lengthy and burdensome that it is next to impossible for someone to get their money back. Furthermore, for an employee to exercise their right to a refund of such dues, they are required to give up their right to vote in the labor organization that they are still required to pay for representing them. This is taxation without representation.

The Supreme Court has consistently ruled that employees paying dues to a labor organization cannot be forced to also pay for the activities outside the core representational activities, such as costs associated with political activities. The Clinton administration, however, has kept employees in the dark regarding the minimal rights they do have. One of the first acts of this administration was to repeal the very regulations to carry out the Supreme Court's decision, which protected employees forced to pay for politics.

People are recognizing the wrong brought upon Americans who have been given no choice in supporting causes for which they oppose. Even the administration's own National Labor Relations Board [NLRB], which has strong labor organization sentiments, recently ruled dues-paying employees are in the least entitled to information setting forth the percentage of those dues not related to collective bargaining activities. While this is a step in the right direction, more needs to be done.

The Paycheck Protection Act protects employees from having their money involuntarily taken from them and used for politics. The act protects stockholders and employees of a corporation from having, as a condition of employment, dues, initiation fees, or other payments for politics taken from them without the separate, prior, written, voluntary authorization. Similarly, the act protects employees paying dues to a labor organization from having such dues, initiation fees, or other payments taken from them which are used for politics.

Mr. President, this act furthers the basic civil right spoken of by Thomas Jefferson. It does so by requiring that individuals not be compelled to fund or support activities outside the legitimate scope of the employer or labor organization. This bill pro-worker, pro-labor organization, and most importantly, pro-American.

I look forward to a broad bipartisan support for this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 9

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 ''Paycheck Protection Act''.

SEC. 2. WORKERS' POLITICAL RIGHTS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) an authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) for purposes of this subsection, the term ''political activities'' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

By Mr. HATCH (for himself, Mr. SESSIONS, Mr. ASHCROFT, Mr. DOMENICI, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. BOND, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. KYL, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SMITH, Mr. THOMAS, Mr. THURMOND, and Mr. WARNER):

S. 10. A bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes; to the Committee on the Judiciary.

VIOLENT AND REPEAT JUVENILE OFFENDER ACT OF 1997

Mr. ASHCROFT. Mr. President, earlier today Senator HATCH introduced S. 10, the Violent and Repeat Offender Act of 1997. Senators LOTT DOMENICI, SESSIONS, and I worked with him in developing the bill. While not perfect, the bill does take the initial steps in dealing with the epidemic of violent juvenile crime sweeping the Nation.

Mr. President, the face of crime in America is indeed changing. Throughout our history, one thing has been clear: Government's first responsibility is to keep the citizenry safe. John Jay wrote in The Federalist, No. 3 ''Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be first.''

The murderers, robbers, rapists, and drug dealers of yesteryear were typically adults. Now they are typically juveniles. As the age of these criminal predators becomes younger and younger with each passing year, so does the age of their victims.

Last Wednesday afternoon, 12-year-old Darryl Dayan Hall was abducted at gunpoint from the Southeast Washington area by three teenagers of a gang known as the Simple City Crew. This is the same gang that opened gunfire at a crowded community swimming pool in June 1993, wounding six children. This past Saturday, police found Darryl's frozen body. He had been shot once in the back of the head and at least once in the body.

The three teenagers who are now charged with Darryl's murder have had numerous prior brushes with the law. One of Darryl's assailants was charged as a juvenile with possession of PCP in 1995 and then was released—as is too often the case—promising not to run afoul of the law again. Another of Darryl's assailants was, and is, on probation following his juvenile conviction last spring for possession of PCP with intent to distribute. Darryl's third assailant was charged as a juvenile just last month with carrying a deadly weapon.

Mr. President, from 1984 to 1994, the number of juveniles murdered in this country increased 82 percent. In 1994, one of every five juveniles murdered were killed by another juvenile. The rate at which juveniles 14 to 17 years old were arrested for murder grew by 22 percent from 1990 to 1994 and the problem is going to get worse, much worse.

Congress, over the last three decades, has established 131 separate Federal programs—administered by 16 different departments and agencies—to serve delinquent and at-risk youth, according to a report issued by GAO last March. Conservative estimates of Federal appropriations used for these at-risk and delinquent youth programs was more than $4 billion in fiscal year 1995.

Despite this ongoing massive expenditure, the Federal Government has failed to meet its responsibility of providing public safety in this arena because it has not focused on holding juveniles accountable for their actions, it must focus on the problem of rising juvenile violence. We have a new category of offenders that deserve a new category of responses. We have criminals in our midst—young criminals.

The juvenile offenders of today will become the career offenders of tomorrow, if Government continues to fail to recognize that America has an acute social illness that cannot be cured with money spent solely on social programs. This legislation takes a commonsense approach in dealing with the epidemic of juvenile violence. It would help States restore safety in urban, suburban, and rural communities.

This legislation would provide $2.5 billion in new incentive grants for States to enact certain accountability-based reforms to their juvenile justice systems. This legislation would authorize funding for various programs, including trying violent juveniles as adults; establishing the ability of States to collect juvenile criminal records, fingerprints, and photographs, and to share that criminal history information within the State, with other States, and with the Federal Government; and establishing the Serious Habitual Offender Comprehensive Action Program [SHOCAP]. In addition, religious organizations would be permitted to participate in rehabilitative programs.

Serious, violent, and repeat juvenile offenders must be held responsible for their crimes. Today we are living with a juvenile justice system that was created around the time of the silent film. We are living with a juvenile justice system that reprimands the crime victim for being at the wrong place at the wrong time, and then turns around and hugs the juvenile terrorist, whispering ever so softly into his ear, ''Don't worry, the State will cure you.''

The juvenile justice system's primary goal is to treat and rehabilitate the juvenile offender. Such a system can handle runaways, truants, and other status offenders; but it is ill-equipped to deal with those who commit serious, violent, and repeat juvenile crime.

The criminal justice system, not the juvenile justice system, can emphasize that adult criminal acts have real consequences. The purpose of the criminal justice system is to punish, that is, to hold defendants accountable.

This legislation would provide financial assistance to States to help them reform their juvenile system. A State would be eligible to receive Federal funds if the State agrees to enact legislation that would provide for the adult prosecution—as a matter of law or prosecutorial discretion—of juveniles 14 or older who commit a violent crime, such as murder, forcible rape, armed robbery and assault with a deadly weapon; an offense involving a controlled substance; or an offense involving possession of a firearm or a destructive device.

Punishment of dangerous juvenile offenders as adults is an effective tool in fighting violent juvenile crime. For example, Jacksonville, FL State Attorney Harry Shorstein instituted a program to prosecute and incarcerate such offenders in 1992. Two years later, arrests for juveniles dropped from 7,184 to 5,475. While juvenile arrests increased for the Nation, Jacksonville's arrest rate decreased by 30 percent.

States need to create and maintain juvenile criminal records. Typically, State statutes seal juvenile criminal records and expunge these records when the juvenile reaches age 18. The time has come to discard anachronistic ideas that crimes, no matter how heinous, by juveniles must be kept confidential.

Our laws view juveniles through the benevolent prism of kids gone astray. It should view them as young criminals who know that they can commit crimes, repeatedly as juveniles because their juvenile records are kept hidden under the veil of secrecy. These young criminals know that when they reach their 18th birthday, they can begin their second career as adult criminals with an unblemished record. In rhetoric we are protecting juveniles from the stigma of a record but in reality we are coddling criminals. We must separate rhetoric from reality by lifting the veil of secrecy.

Law enforcement officers need to know the prior juvenile criminal records of individuals to assist them in criminal investigations and apprehension.

Law enforcement is in desperate need of access to juvenile criminal records, according to Police Chief David G. Walchak, who is also president of the International Association of Chiefs of Police. The police chief says, ''Current juvenile records (both arrest and adjudication) are inconsistent across the states, and are usually unavailable to the various programs' staff who work with youthful offenders.'' The police chief further states that ''There are only 26 states that even allow law enforcement access to juvenile records.''

In the words of Chief Walchak, ''If we [law enforcement] don't know who the youthful offenders are, we can't appropriately intervene.'' It is that simple. As juvenile gangs spread from urban to suburban to rural areas, as they travel from State to State, the veil of secrecy draped over their criminal history records undermines law enforcement efforts.

This legislation would also provide money to States to create, maintain, and share juvenile criminal records, and to share those records with other Federal, State, and local law enforcement agencies. Strengthening law enforcement should be a top priority.

School officials need access to juvenile criminal records to assist them in providing for the best interests of all students. Students are vulnerable in unsafe school environments. The decline in school safety can be attributed to laws that protect dangerous students rather than innocent students. While visiting with school officials in Sikeston, MO, a teacher told me that a student came to school wearing an electronic monitoring ankle bracelet. The student told the teacher, ''You don't know if I'm a murderer or a rapist and I ain't gonna tell you.'' That student was brutally honest. No one had any knowledge of what he had done and, more important, no way of finding out.

If schools know the identity of a violent juvenile, they can respond to misbehavior by imposing stricter sanctions, assigning particular teachers, or having the student's locker near a teacher's doorway entrance so that the teacher can monitor his conduct during the changing of class periods. In short, this bill would allow school officials to take measures that could prevent violence at schools.

For purposes of adult sentencing, adult courts need to know if a convicted felon has a history of criminal behavior. According to the 1991 Survey of Inmates in State Correctional Facilities, nearly 40 percent of prison inmates had a prior record as a juvenile. That is approximately 4 in 10 prison inmates. This legislation will not enable criminals to masquerade as neophytes before the criminal justice system.

The bill allows State and local governments to use Federal funds to implement the Serious Habitual Offenders Comprehensive Action Program [SHOCAP].

SHOCAP is a multiagency crime analysis and case management process for identifying and targeting the violent and hard-core juvenile offenders in a community.

SHOCAP targets these serious habitual offenders for most intensive social supervisory interventions, the most intensive accountability in school attendance and discipline, and the most investigation and prosecution when they commit a crime.

The OJJDP conducted five test pilots of SHOCAP. Oxnard, CA was one of the selected sites. SHOCAP was implemented in 1983. Oxnard found that less than 2 percent of all juveniles arrested in that community were responsible for 35 percent of felonies by juveniles. Four years later, Oxnard's violent crime dropped 38 percent. Illinois and Florida both have recently established statewide SHOCAP's. This bill would allow all jurisdictions to use Federal funds to implement SHOCAP.

Reforms are necessary at the Federal level as well. This legislation would make it easier for Federal prosecutors to try juveniles as adults. Under the bill, U.S. attorneys would have discretion to decide whether to try as adults juveniles 14 years or older who are alleged to have committed an act which if committed by an adult would be a felony. This would eliminate juvenile transfer hearings that leave the transfer decision to juvenile court judges.

Federal juvenile court proceedings would be open to the general public. When imposing a sentence, the district court would be allowed to consider the juvenile's entire prior juvenile records. In any case in which a juvenile is tried as an adult, access to the record of the offenses of the juvenile shall be made available in the same manner as is applicable to adult defendants. And in those cases in which the juvenile was adjudicated delinquent in Federal juvenile delinquency proceedings, the U.S. attorney would be allowed to release such records to law enforcement authorities of any jurisdiction and to school officials.

When the act committed by the juvenile is heinous, the punishment will be weighed accordingly. If tried and sentenced as an adult, the juvenile would be subject to the death penalty as an adult. In addition, the death penalty would be lowered from age 18 to 16.

The Government should mount a counterattack on gang violence. This legislation targets violent youth gangs, like the notorious Simple City Crew in the District. There would be new Federal penalties for offenses committed by criminal street gangs. Gangs are no longer concentrated in the big cities, they are now in rural towns. The bill would also provide $100 million to hire assistant U.S. attorneys to prosecute juvenile criminal street gangs.

We must challenge this culture of violence and restore the culture of personal responsibility. It is high time to consider hardheaded and sensible juvenile justice policies. Where possible we must give second chances. Where necessary we must punish severely. This is a first step to restore justice to a nation that has grown weary of injustice.

In sum, this legislation would send a clear, cogent, and convincing message: serious acts have serious consequences.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 10

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 ''Violent and Repeat Juvenile Offender Act of 1997''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) at the outset of the twentieth century, the States adopted 2 separate juvenile justice systems for violent and nonviolent offenders;

(2) violent crimes committed by juveniles, such as homicide, rape, and robbery, were an unknown phenomenon at that time, but the rate at which juveniles commit such crimes has escalated astronomically since that time;

(3) in 1994—

(A) the number of persons arrested overall for murder in the United States decreased by 5.8 percent, but the number of persons who are less than 15 years of age arrested for murder increased by 4 percent; and

(B) the number of persons arrested for all violent crimes increased by 1.3 percent, but the number of persons who are less than 15 years of age arrested for violent crimes increased by 9.2 percent, and the number of persons less than 18 years of age arrested for such crimes increased by 6.5 percent;

(4) from 1985 to 1996, the number of persons arrested for all violent crimes increased by 52.3 percent, but the number of persons under age 18 arrested for violent crimes rose by 75 percent;

(5) the number of juvenile offenders is expected to undergo a massive increase during the first 2 decades of the twenty-first century, culminating in an unprecedented number of violent offenders who are less than 18 years of age;

(6) the rehabilitative model of sentencing for juveniles, which Congress rejected for adult offenders when Congress enacted the Sentencing Reform Act of 1984, is inadequate and inappropriate for dealing with violent and repeat juvenile offenders;

(7) the Federal Government should encourage the States to experiment with progressive solutions to the escalating problem of juveniles who commit violent crimes and who are repeat offenders, including prosecuting all such offenders as adults, but should not impose specific strategies or programs on the States;

(8) an effective strategy for reducing violent juvenile crime requires greater collection of investigative data and other information, such as fingerprints and DNA evidence, as well as greater sharing of such information among Federal, State, and local agencies, including the courts, in the law enforcement and educational systems;

(9) data regarding violent juvenile offenders must be made available to the adult criminal justice system if recidivism by criminals is to be addressed adequately;

(10) holding juvenile proceedings in secret denies victims of crime the opportunity to attend and be heard at such proceedings, helps juvenile offenders to avoid accountability for their actions, and shields juvenile proceedings from public scrutiny and accountability;

(11) the injuries and losses suffered by the victims of violent crime are no less painful or devastating because the offender is a juvenile; and

(12) the investigation, prosecution, adjudication, and punishment of criminal offenses committed by juveniles is, and should remain, primarily the responsibility of the States, to be carried out without interference from the Federal Government.

(b) PURPOSES.—The purposes of this Act are—

(1) to reform juvenile law so that the paramount concerns of the juvenile justice system are providing for the safety of the public and holding juvenile wrongdoers accountable for their actions, while providing the wrongdoer a genuine opportunity for self reform;

(2) to revise the procedures in Federal court that are applicable to the prosecution of juvenile offenders;

(3) to address specifically the problem of violent crime and controlled substance offenses committed by youth gangs; and

(4) to encourage and promote, consistent with the ideals of federalism, adoption of policies by the States to ensure that the victims of crimes of violence committed by juveniles receive the same level of justice as do victims of violent crimes that are committed by adults.

SEC. 3. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE I—JUVENILE JUSTICE REFORM

SEC. 101. REPEAL OF GENERAL PROVISION.

(a) IN GENERAL.—Chapter 401 of title 18, United States Code, is amended—

(1) by striking section 5001; and

(2) by redesignating section 5003 as section 5001.

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 401 of title 18, United States Code, is amended—

(1) by striking the item relating to section 5001; and

(2) by redesignating the item relating to section 5003 as 5001.

SEC. 102. TREATMENT OF FEDERAL JUVENILE OFFENDERS.

(a) IN GENERAL.—Section 5032 of title 18, United States Code, is amended to read as follows:

''§ 5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution

''(a) IN GENERAL.—A juvenile who is not less than 14 years of age and who is alleged to have committed an act that, if committed by an adult, would be a criminal offense, shall be tried in the appropriate district court of the United States—

''(1) as an adult at the discretion of the United States Attorney in the appropriate jurisdiction, upon a finding by that United States Attorney, which finding shall not be subject to review in or by any court, trial or appellate, that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction, if the juvenile is charged with a Federal offense that—

''(A) is a crime of violence (as that term is defined in section 16); or

''(B) involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the penalty is a term of imprisonment of not less than 5 years; and

''(2) in all other cases, as a juvenile.

''(b) REFERRAL BY UNITED STATES ATTORNEY.—

''(1) IN GENERAL.—If the United States Attorney in the appropriate jurisdiction declines prosecution of a charged offense under subsection (a)(2), the United States Attorney may refer the matter to the appropriate legal authorities of the State or Indian tribe.

''(2) DEFINITIONS.—In this section—

''(A) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

''(B) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act.

''(c) APPLICABLE PROCEDURES.—Any action prosecuted in a district court of the United States under this section—

''(1) shall proceed in the same manner as is required by this title and by the Federal Rules of Criminal Procedure in proceedings against an adult in the case of a juvenile who is being tried as an adult in accordance with subsection (a); and

''(2) in all other cases, shall proceed in accordance with this chapter, unless the juvenile has requested in writing, upon advice of counsel, to be proceeded against as an adult.

''(d) CAPITAL CASES.—Subject to section 3591, if a juvenile is tried and sentenced as an adult, the juvenile shall be subject to being sentenced to death on the same terms and in accordance with the same procedures as an adult.

''(e) APPLICATION OF LAWS.—In any case in which a juvenile is prosecuted in a district court of the United States as an adult, the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing that would be applicable in the case of an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years.

''(f) OPEN PROCEEDINGS.—

''(1) IN GENERAL.—Any offense tried in a district court of the United States pursuant to this section shall be open to the general public, in accordance with rules 10, 26, 31(a), and 53 of the Federal Rules of Criminal Procedure, unless good cause is established by the moving party or is otherwise found by the court, for closure.

''(2) STATUS ALONE INSUFFICIENT.—The status of the defendant as a juvenile, absent other factors, shall not constitute good cause for purposes of this subsection.

''(g) AVAILABILITY OF RECORDS.—

''(1) IN GENERAL.—In making a determination concerning the prosecution of a juvenile in a district court of the United States under this section, subject to the requirements of section 5038, the United States Attorney of the appropriate jurisdiction shall have complete access to the prior Federal juvenile records of the subject juvenile, and to the extent permitted by State law, the prior State juvenile records of the subject juvenile.

''(2) CONSIDERATION OF ENTIRE RECORD.—In any case in which a juvenile is found guilty in an action pursuant to this section, the district court responsible for imposing sentence shall have complete access to the prior juvenile records of the subject juvenile, and, to the extent permitted under State law, the prior State juvenile records of the subject juvenile. At sentencing, the district court shall consider the entire available prior juvenile record of the subject juvenile.

''(3) RELEASE OF RECORDS.—The United States Attorney may release such Federal records, and, to the extent permitted by State law, such State records, to law enforcement authorities of any jurisdiction and to officials of any school, school district, or postsecondary school at which the individual who is the subject of the juvenile record is enrolled or seeks, intends, or is instructed to enroll, if such school officials are held liable to the same standards and penalties to which law enforcement and juvenile justice system employees are held liable under Federal and State law, for the handling and disclosure of such information.''.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 403 of title 18, United States Code, is amended by striking the item relating to section 5032 and inserting the following:

''5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution.''.

SEC. 103. CAPITAL CASES.

Section 3591 of title 18, United States Code, is amended by striking ''18 years'' each place that term appears and inserting ''16 years''.

SEC. 104. DEFINITIONS.

Section 5031 of title 18, United States Code, is amended to read as follows:

''§ 5031. Definitions

''In this chapter—

''(1) the term 'juvenile' means a person who is less than 18 years of age; and

''(2) the term 'juvenile delinquency' means the violation of a law of the United States committed by a juvenile that would be a crime if committed by an adult.''.

SEC. 105. NOTIFICATION AFTER ARREST.

Section 5033 of title 18, United States Code, is amended in the first sentence by striking ''Attorney General'' and inserting ''United States Attorney of the appropriate jurisdiction''.

SEC. 106. DETENTION PRIOR TO DISPOSITION.

Section 5035 of title 18, United States Code, is amended—

(1) by striking ''A juvenile'' and inserting the following:

''(a) IN GENERAL.—A juvenile''; and

(2) by adding at the end the following:

''(b) DETENTION OF CERTAIN JUVENILES.—Notwithstanding subsection (a), a juvenile who is to be tried as an adult pursuant to section 5032 shall be subject to detention in accordance with chapter 203 in the same manner and to the same extent as an adult would be subject to that chapter.''.

SEC. 107. SPEEDY TRIAL.

Section 5036 of title 18, United States Code, is amended—

(1) by striking ''thirty'' and inserting ''70''; and

(2) by striking ''the court,'' and all that follows through the end of the section and inserting ''the court. The periods of exclusion under section 3161(h) shall apply to this section.''.

SEC. 108. DISPOSITIONAL HEARINGS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''(a)'' and all that follows through ''After the'' and inserting the following:

''(a) IN GENERAL.—

''(1) DISPOSITIONAL HEARING.—In any case in which a juvenile is found to be a juvenile delinquent in district court pursuant to section 5032, but is not tried as an adult under that section, not later than 20 days after the hearing in which a finding of juvenile delinquency is made, the court shall hold a disposition hearing concerning the appropriate disposition unless the court has ordered further study pursuant to subsection (d).

''(2) ACTIONS OF COURT AFTER HEARING.—After the'';

(2) in subsection (b), by striking ''extend—'' and all that follows through ''The provisions'' and inserting the following: ''extend, in the case of a juvenile, beyond the maximum term that would be authorized by section 3561(b), if the juvenile had been tried and convicted as an adult. The provisions'';

(3) in subsection (c), by striking ''extend—'' and all that follows through ''Section 3624'' and inserting the following: ''extend beyond the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years. Section 3624'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) APPLICABILITY OF RESTITUTION PROVISIONS.—If a juvenile has been tried and convicted as an adult, or adjudicated delinquent for any offense in which the juvenile is otherwise tried pursuant to section 5032, the restitution provisions contained in this title (including sections 3663, 3663A, 2248, 2259, 2264, and 2327) and title 21 shall apply to that juvenile in the same manner and to the same extent as those provisions apply to adults.''.

SEC. 109. USE OF JUVENILE RECORDS.

Section 5038 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and'';

(C) by inserting after paragraph (6) the following:

''(7) inquiries from any school or other educational institution for the purpose of ensuring the public safety and security at such institution.''; and

(D) by striking ''Unless'' and inserting the following:

''(c) PROHIBITION ON RELEASE OF CERTAIN INFORMATION.—Unless'';

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting immediately after subsection (a) the following:

''(b) ACCESS BY UNITED STATES ATTORNEY.—Notwithstanding subsection (a), in determining the appropriate disposition of a juvenile matter under section 5032, the United States Attorney of the appropriate jurisdiction shall have complete access to the official records of the juvenile proceedings conducted under this title.'';

(4) by inserting after subsection (e), as redesignated, the following:

''(f) RECORDS OF JUVENILES TRIED AS ADULTS.—In any case in which a juvenile is tried as an adult, access to the record of the offenses of the juvenile shall be made available in the same manner as is applicable to adult defendants.'';

(5) by striking ''(d) Whenever'' and all that follows through ''adult defendants.'' and inserting the following:

''(g) FINGERPRINTS AND PHOTOGRAPHS.—Fingerprints and photographs of a juvenile—

''(1) who is prosecuted as an adult, shall be made available in the same manner as is applicable to an adult defendant; and

''(2) who is not prosecuted as an adult, shall be made available only as provided in subsection (a).'';

(6) by striking ''(e) Unless,'' and inserting the following:

''(h) NO PUBLICATION OF NAME OR PICTURE.—Unless'';

(7) by striking ''(f) Whenever'' and inserting the following:

''(i) INFORMATION TO FEDERAL BUREAU OF INVESTIGATION.—Whenever''; and

(8) in subsection (i), as redesignated—

(A) by striking ''of committing an act'' and all that follows through ''5032 of this title'' and inserting ''by a district court of the United States pursuant to section 5032 of committing an act''; and

(B) by inserting ''involved a juvenile tried as an adult or'' before ''were juvenile adjudications''.

SEC. 110. INCARCERATION OF VIOLENT OFFENDERS.

Section 5039 of title 18, United States Code, is amended—

(1) by designating the first 3 undesignated paragraphs as subsections (a) through (c), respectively; and

(2) by adding at the end the following:

''(d) SEGREGATION OF JUVENILES CONVICTED OF VIOLENT OFFENSES.—

''(1) DEFINITION.—In this subsection, the term 'crime of violence' has the same meaning as in section 16 of title 18, United States Code.

''(2) SEGREGATION.—The Director of the Bureau of Prisons shall ensure that juveniles who are alleged to be or determined to be delinquent are not confined in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined.''.

SEC. 111. FEDERAL SENTENCING GUIDELINES.

Section 994(h) of title 28, United States Code, is amended by inserting '', or in which the defendant is a juvenile who is tried as an adult,'' after ''old or older''.

TITLE II—JUVENILE GANGS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Federal Gang Violence Act''.

SEC. 202. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS A GANG MEMBER.

(a) DEFINITION.—In this section, the term ''criminal street gang'' has the same meaning as in section 521(a) of title 18, United States Code, as amended by section 203 of this title.

(b) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the

United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement, increasing the offense level by not less than 6 levels, for any offense, if the offense was both committed in connection with, or in furtherance of, the activities of a criminal street gang and the defendant was a member of the criminal street gang at the time of the offense.

(c) CONSTRUCTION WITH OTHER GUIDELINES.—The amendment made pursuant to subsection (b) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal sentencing guidelines.

SEC. 203. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.

(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''(a) DEFINITIONS.—'' and inserting the following:

''(a) DEFINITIONS.—In this section:'', and

(B) by striking ''conviction'' and all that follows through the end of the subsection and inserting the following:

''(1) CRIMINAL STREET GANG.—The term 'criminal street gang' means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informal—

''(A) a primary activity of which is the commission of 1 or more predicate gang crimes;

''(B) any members of which engage, or have engaged during the 5-year period preceding the date in question, in a pattern of criminal gang activity; and

''(C) the activities of which affect interstate or foreign commerce.

''(2) PATTERN OF CRIMINAL GANG ACTIVITY.—The term 'pattern of criminal gang activity' means the commission of 2 or more predicate gang crimes committed in connection with, or in furtherance of, the activities of a criminal street gang—

''(A) at least 1 of which was committed after the date of enactment of the Federal Gang Violence Act;

''(B) the first of which was committed not more than 5 years before the commission of another predicate gang crime; and

''(C) that were committed on separate occasions.

''(3) PREDICATE GANG CRIME.—The term 'predicate gang crime' means an offense, including an act of juvenile delinquency that, if committed by an adult, would be an offense that is—

''(A) a Federal offense—

''(i) that is a crime of violence (as that term is defined in section 16) including carjacking, drive-by-shooting, shooting at an unoccupied dwelling or motor vehicle, assault with a deadly weapon, and homicide;

''(ii) that involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the penalty is imprisonment for not less than 5 years;

''(iii) that is a violation of section 844, section 875 or 876 (relating to extortion and threats), section 1084 (relating to gambling), section 1955 (relating to gambling), chapter 44 (relating to firearms), or chapter 73 (relating to obstruction of justice);

''(iv) that is a violation of section 1956 (relating to money laundering), insofar as the violation of such section is related to a Federal or State offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

''(v) that is a violation of section 274(a)(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328) (relating to alien smuggling);

''(B) a State offense involving conduct that would constitute an offense under subparagraph (A) if Federal jurisdiction existed or had been exercised; or

''(C) a conspiracy, attempt, or solicitation to commit an offense described in subparagraph (A) or (B).

''(3) STATE.—The term 'State' includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory of possession of the United States.''; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

''(b) CRIMINAL PENALTIES.—Any person who engages in a pattern of criminal gang activity—

''(1) shall be sentenced to—

''(A) a term of imprisonment of not less than 10 years and not more than life, fined in accordance with this title, or both; and

''(B) the forfeiture prescribed in section 413 of the Controlled Substances Act (21 U.S.C. 853); and

''(2) if any person engages in such activity after 1 or more prior convictions under this section have become final, shall be sentenced to—

''(A) a term of imprisonment of not less than 20 years and not more than life, fined in accordance with this title, or both; and

''(B) the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853).''.

(b) CONFORMING AMENDMENT.—Section 3663(c)(4) of title 18, United States Code, is amended by inserting before ''chapter 46'' the following: ''section 521 of this title,''.

SEC. 204. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF CRIMINAL STREET GANGS.

(a) TRAVEL ACT AMENDMENTS.—

(1) PROHIBITED CONDUCT AND PENALTIES.—Section 1952(a) of title 18, United States Code, is amended to read as follows:

''(a) PROHIBITED CONDUCT AND PENALTIES.—

''(1) IN GENERAL.—Any person who—

''(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

''(i) distribute the proceeds of any unlawful activity; or

''(ii) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; and

''(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), performs, attempts to perform, or conspires to perform an act described in clause (i) or (ii) of subparagraph (A),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(2) CRIMES OF VIOLENCE.—Any person who—

''(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity; and

''(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), commits, attempts to commit, or conspires to commit any crime of violence to further any unlawful activity,

shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.''.

(2) DEFINITIONS.—Section 1952(b) of title 18, United States Code, is amended to read as follows:

''(b) DEFINITIONS.—In this section:

''(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the same meaning as in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

''(2) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

''(3) UNLAWFUL ACTIVITY.—The term 'unlawful activity' means—

''(A) predicate gang crime (as that term is defined in section 521);

''(B) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances, or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

''(C) extortion, bribery, arson, robbery, burglary, assault with a deadly weapon, retaliation against or intimidation of witnesses, victims, jurors, or informants, assault resulting in bodily injury, possession of or trafficking in stolen property, illegally trafficking in firearms, kidnapping, alien smuggling, or shooting at an occupied dwelling or motor vehicle, in each case, in violation of the laws of the State in which the offense is committed or of the United States; or

''(D) any act that is indictable under section 1956 or 1957 of this title or under subchapter II of chapter 53 of title 31.''.

(b) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines so that—

(A) the base offense level for traveling in interstate or foreign commerce in aid of a criminal street gang or other unlawful activity is increased to 12; and

(B) the base offense level for the commission of a crime of violence in aid of a criminal street gang or other unlawful activity is increased to 24.

(2) DEFINITIONS.—In this subsection—

(A) the term ''crime of violence'' has the same meaning as in section 16 of title 18, United States Code;

(B) the term ''criminal street gang'' has the same meaning as in 521(a) of title 18, United States Code, as amended by section 203 of this title; and

(C) the term ''unlawful activity'' has the same meaning as in section 1952(b) of title 18, United States Code, as amended by this section.

SEC. 205. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL GANG ACTIVITY.

(a) PROHIBITED ACTS.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

''§ 522. Recruitment of persons to participate in criminal street gang activity

''(a) PROHIBITED ACT.—It shall be unlawful for any person to—

''(1) use any facility in, or travel in, interstate or foreign commerce, or cause another to do so, to recruit, solicit, request, induce, counsel, command, or cause another person to be a member of a criminal street gang, or conspire to do so; or

''(2) recruit, solicit, request, induce, counsel, command, or cause another person to engage in a predicate gang crime for which such person may be prosecuted in a court of the United States, or conspire to do so.

''(b) PENALTIES.—A person who violates subsection (a) shall—

''(1) if the person recruited—

''(A) is a minor, be imprisoned for a term of not less than 4 years and not more than 10 years, fined in accordance with this title, or both; or

''(B) is not a minor, be imprisoned for a term of not less than 1 year and not more than 10 years, fined in accordance with this title, or both; and

''(2) be liable for any costs incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor reaches the age of 18.

''(c) DEFINITIONS.—In this section—

''(1) the terms 'criminal street gang' and 'predicate gang crime' have the same meanings as in section 521; and

''(2) the term 'minor' means a person who is younger than 18 years of age.''.

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines to provide an appropriate enhancement for any offense involving the recruitment of a minor to participate in a gang activity.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

''522. Recruitment of persons to participate in criminal street gang activity.''.

SEC. 206. CRIMES INVOLVING THE RECRUITMENT OF PERSONS TO PARTICIPATE IN CRIMINAL STREET GANGS AND FIREARMS OFFENSES AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking ''or'' before ''(F)''; and

(2) by inserting before the semicolon at the end the following: '', (G) an offense under section 522 of this title, or (H) an act or conspiracy to commit any violation of chapter 44 of this title (relating to firearms)''.

SEC. 207. PROHIBITIONS RELATING TO FIREARMS.

(a) PENALTIES.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A);

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

(3) in subparagraph (A), as redesignated—

(A) by striking ''(B) A person other than a juvenile who knowingly'' and inserting ''(A) A person who knowingly'';

(B) in clause (i), by striking ''not more than 1 year'' and inserting ''not less than 1 year and not more than 5 years''; and

(C) in clause (ii), by inserting ''not less than 1 year and'' after ''imprisoned''; and

(4) by adding at the end the following:

''(B) Notwithstanding subparagraph (A), no mandatory minimum sentence shall apply to a juvenile who is less than 13 years of age.''.

(b) SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL PREDICATES.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by adding ''or'' at the end; and

(3) by adding at the end the following:

''(iii) any act of juvenile delinquency that if committed by an adult would be an offense described in clause (i) or (ii);''.

(c) TRANSFER OF FIREARMS TO MINORS FOR USE IN CRIME.—Section 924(h) of title 18, United States Code, is amended by striking ''10 years, fined in accordance with this title, or both'' and inserting ''10 years, and if the transferee is a person who is under 18 years of age, imprisoned for a term of not less than 3 years, fined in accordance with this title, or both''.

SEC. 208. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) DEFINITIONS.—In this section—

(1) the term ''body armor'' means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

(2) the term ''law enforcement officer'' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) SENTENCING ENHANCEMENT.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement, increasing the offense level not less than 2 levels, for any crime in which the defendant used body armor.

(c) APPLICABILITY.—No Federal sentencing guideline amendment made pursuant to this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 209. ADDITIONAL PROSECUTORS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, and 2002 for the hiring of Assistant United States Attorneys and attorneys in the Criminal Division of the Department of Justice to prosecute juvenile criminal street gangs (as that term is defined in section 521(a) of title 18, United States Code, as amended by section 203 of this title).

TITLE III—JUVENILE CRIME CONTROL AND ACCOUNTABILITY

SEC. 301. FINDINGS; DECLARATION OF PURPOSE; DEFINITIONS.

Title I of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended to read as follows:

''TITLE I—FINDINGS AND DECLARATION OF PURPOSE

''SEC. 101. FINDINGS.

''Congress finds that—

''(1) during the past several years, the United States has experienced an alarming increase in arrests of adolescents for murder, assault, and weapons offenses;

''(2) in 1994, juveniles accounted for 1 in 5 arrests for violent crimes, including murder, robbery, aggravated assault, and rape, including 514 such arrests per 100,000 juveniles 10 through 17 years of age;

''(3) understaffed, overcrowded juvenile courts, prosecutorial and public defender offices, probation services, and correctional facilities no longer adequately address the changing nature of juvenile crime, protect the public, and correct youth offenders;

''(4) the juvenile justice system has proven inadequate to meet the needs of society, because insufficient sanctions are imposed on serious youth offenders and the needs of children, who may be at risk of becoming delinquents;

''(5) existing programs and policies have not adequately responded to the particular threat of drugs, alcohol abuse, violence, and gangs pose to the youth of the Nation;

''(6) demographic increases projected in the number of youth offenders require reexamination of the prosecution and incarceration policies for serious violent youth offenders;

''(7) State and local communities that experience directly the devastating failures of the juvenile justice system require assistance to deal comprehensively with the problems of juvenile delinquency;

''(8) Existing Federal programs have not provided the States with necessary flexibility, and have not provided coordination, resources, and leadership required to meet the crisis of youth violence.

''(9) Overlapping and uncoordinated Federal programs have created a multitude of Federal funding streams to State and local governments, that have become a barrier to effective program coordination, responsive public safety initiatives, and the provision of comprehensive services for children and youth.

''(10) Violent crime by juveniles constitutes a growing threat to the national welfare that requires an immediate and comprehensive governmental response, combining flexibility and coordinated evaluation.

''(11) Limited State and local resources are being wasted complying with the unnecessary Federal mandate that status offenders be desinstitutionalized. Some communities believe that curfews are appropriate for juveniles, and those communities should not be prohibited by the Federal Government from using confinement for status offenses as a means of dealing with delinquent behavior before it becomes criminal conduct.

''(12) Limited State and local resources are being wasted complying with the unnecessary Federal mandate that no juvenile be detained or confined in any jail or lockup for adults, because it can be feasible to separate adults and juveniles in 1 facility. This mandate is particularly burdensome for rural communities.

''(13) The role of the Federal Government should be to encourage and empower communities to develop and implement policies to protect adequately the public from serious juvenile crime as well as comprehensive programs to reduce risk factors and prevent juvenile delinquency.

''(14) A strong partnership among law enforcement, local government, juvenile and family courts, schools, businesses, philanthropic organizations, families, and the religious community, can create a community environment that supports the youth of the Nation in reaching their highest potential and reduces the destructive trend of juvenile crime.

''SEC. 102. PURPOSE AND STATEMENT OF POLICY.

''(a) IN GENERAL.—The purposes of this Act are—

''(1) to protect the public and to hold juveniles accountable for their acts;

''(2) to empower States and communities to develop and implement comprehensive programs that support families and reduce risk factors and prevent serious youth crime and juvenile delinquency;

''(3) to provide for the thorough and ongoing evaluation of all federally funded programs addressing juvenile crime and delinquency;

''(4) to provide technical assistance to public and private nonprofit entities that protect public safety, administer justice and corrections to delinquent youth, or provide services to youth at risk of delinquency, and their families;

''(5) to establish a centralized research effort on the problems of youth crime and juvenile delinquency, including the dissemination of the findings of such research and all related data;

''(6) to establish a Federal assistance program to deal with the problems of runaway and homeless youth;

''(7) to assist State and local governments in improving the administration of justice for juveniles;

''(8) to assist the State and local governments in reducing the level of youth violence;

''(9) to assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

''(10) to encourage and promote programs designed to keep in school juvenile delinquents expelled or suspended for disciplinary reasons;

''(11) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

''(12) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system;

''(13) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

''(14) to assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;

''(15) to provide for the evaluation of federally assisted juvenile crime control programs, and training necessary for the establishment and operation of such programs;

''(16) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

''(17) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.

''(b) STATEMENT OF POLICY.—It is the policy of Congress to provide resources, leadership, and coordination—

''(1) to combat youth violence and to prosecute and punish effectively violent juvenile offenders; and

''(2) to improve the quality of juvenile justice in the United States.

''SEC. 103. DEFINITIONS.

''In this Act:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Office of Juvenile Crime Control and Accountability.

''(2) CONSTRUCTION.—The term 'construction' means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings).

''(3) JUVENILE POPULATION.—The term 'juvenile population' means the population of a State under 18 years of age.

''(4) OFFICE.—The term 'Office' means the Office of Juvenile Crime Control and Accountability established under section 201.

''(5) OUTCOME OBJECTIVE.—The term 'outcome objective' means an objective that relates to the impact of a program or initiative, that measures the reduction of high risk behaviors, such as incidence of arrest, the commission of criminal acts or acts of delinquency, failure in school, violence, the use of alcohol or illegal drugs, involvement of youth gangs, and teenage pregnancy, among youth in the community.

''(6) PROCESS OBJECTIVE.—The term 'process objective' means an objective that relates to the manner in which a program or initiative is carried out, including—

''(A) an objective relating to the degree to which the program or initiative is reaching the target population; and

''(B) an objective relating to the degree to which the program or initiative addresses known risk factors for youth problem behaviors and incorporates activities that inhibit the behaviors and that build on protective factors for youth.

''(7) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(8) STATE OFFICE.—The term 'State office' means an office designated by the chief executive officer of a State to carry out this title, as provided in section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

''(9) TREATMENT.—The term 'treatment' includes medical and other rehabilitative services designed to protect the public, including any services designed to benefit addicts and other users by—

''(A) eliminating their dependence on alcohol or other addictive or nonaddictive drugs; or

''(B) controlling their dependence and susceptibility to addiction or use.

''(10) YOUTH.—The term 'youth' means an individual who is not less than 6 years of age and not more than 17 years of age.''.

SEC. 302. YOUTH CRIME CONTROL AND ACCOUNTABILITY BLOCK GRANTS.

(a) OFFICE OF JUVENILE CRIME CONTROL AND ACCOUNTABILITY.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended—

(1) in subsection (a), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Juvenile Crime Control and Accountability''; and

(2) by adding at the end the following:

''(d) DELEGATION AND ASSIGNMENT.—

''(1) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided by this title, the Administrator may—

''(A) delegate any of the functions of the Administrator, and any function transferred or granted to the Administrator after the date of enactment of this Act, to such officers and employees of the Office as the Administrator may designate; and

''(B) authorize successive redelegations of such functions as may be necessary or appropriate.

''(2) RESPONSIBILITY.—No delegation of functions by the Administrator under this subsection or under any other provision of this title shall relieve the Administrator of responsibility for the administration of such functions.

''(e) REORGANIZATION.—The Administrator may allocate or reallocate any function transferred among the officers of the Office, and establish, consolidate, alter, or discontinue such organizational entities in that Office as may be necessary or appropriate.''.

(b) NATIONAL PROGRAM.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended to read as follows:

''SEC. 204. NATIONAL PROGRAM.

''(a) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY PLAN.—

''(1) IN GENERAL.—The Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out such plan, for all Federal juvenile crime control and juvenile offender accountability programs and activities relating to improving juvenile crime control and the enhancement of accountability by offenders within the juvenile justice system in the United States.

''(2) CONTENTS OF PLANS.—

''(A) IN GENERAL.—Each plan described in paragraph (1) shall—

''(i) contain specific, measurable goals and criteria for reducing the incidence of crime and delinquency among juveniles, improving juvenile crime control, and ensuring accountability by offenders within the juvenile justice system in the United States, and shall include criteria for any discretionary grants and contracts, for conducting research, and for carrying out other activities under this title;

''(ii) provide for coordinating the administration of programs and activities under this title with the administration of all other Federal juvenile crime control and juvenile offender accountability programs and activities, including proposals for joint funding to be coordinated by the Administrator;

''(iii) provide a detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by such data.

''(iv) provide a description of the activities for which amounts are expended under this title;

''(v) provide specific information relating to the attainment of goals set forth in the plan, including specific, measurable standards for assessing progress toward national juvenile crime reduction and juvenile offender accountability goals; and

''(vi) provide for the coordination of Federal, State, and local initiatives for the reduction of youth crime and ensuring accountability for juvenile offenders.

''(B) SUMMARY AND ANALYSIS.—Each summary and analysis under subparagraph (A)(iii) shall set out the information required by clauses (i), (ii), and (iii) of this subparagraph separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

''(i) the types of offenses with which the juveniles are charged;

''(ii) the ages of the juveniles;

''(iii) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups; and

''(iv) the number of juveniles who died while in custody and the circumstances under which each juvenile died.

''(3) ANNUAL REVIEW.—The Administrator shall annually—

''(A) review each plan submitted under this subsection;

''(B) revise the plans, as the Administrator considers appropriate; and

''(C) not later than March 1 of each year, present the plans to the Committees on the Judiciary of the Senate and the House of Representatives.

''(b) DUTIES OF ADMINISTRATOR.—In carrying out this title, the Administrator shall—

''(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile crime control and juvenile offender accountability programs, and Federal policies regarding juvenile crime and justice, including policies relating to juveniles prosecuted or adjudicated in the Federal courts;

''(2) implement and coordinate Federal juvenile crime control and juvenile offender accountability programs and activities among Federal departments and agencies and between such programs and activities and other Federal programs and activities that the Administrator determines may have an important bearing on the success of the entire national juvenile crime control and juvenile offender accountability effort;

''(3) provide for the auditing of grants provided pursuant to this title;

''(4) collect, prepare, and disseminate useful data regarding the prevention, correction, and control of juvenile crime and delinquency, and issue, not less frequently than once each calendar year, a report on successful programs and juvenile crime reduction methods utilized by States, localities, and private entities;

''(5) ensure the performance of comprehensive rigorous independent scientific evaluations, each of which shall—

''(A) be independent in nature, and shall employ rigorous and scientifically valid standards and methodologies; and

''(B) include measures of outcome and process objectives, such as reductions in juvenile crime, youth gang activity, youth substance abuse, and other high risk factors, as well as increases in protective factors that reduce the likelihood of delinquency and criminal behavior;

''(6) involve consultation with appropriate authorities in the States and with appropriate private entities in the development, review, and revision of the plans required by subsection (a) and in the development of policies relating to juveniles prosecuted or adjudicated in the Federal courts; and

''(7) provide technical assistance to the States, units of local government, and private entities in implementing programs funded by grants under this title.

''(c) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY BUDGET.—

''(1) IN GENERAL.—The Administrator shall—

''(A) develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities for any Federal juvenile crime control or juvenile offender accountability program, a consolidated National Juvenile Crime Control and Juvenile Offender Accountability Plan budget proposal to implement the National Juvenile Crime Control and Juvenile Offender Accountability Plan; and

''(B) transmit such budget proposal to the President and to Congress.

''(2) SUBMISSION OF JUVENILE OFFENDER ACCOUNTABILITY BUDGET REQUEST.—

''(A) IN GENERAL.—Each Federal Government program manager, agency head, and department head with responsibility for any Federal juvenile crime control or juvenile offender accountability program shall submit the juvenile crime control and juvenile offender accountability budget request of the program, agency, or department to the Administrator at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

''(B) TIMELY DEVELOPMENT AND SUBMISSION.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall ensure timely development and submission to the Administrator of juvenile crime control and juvenile offender accountability budget requests transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget.

''(3) REVIEW AND CERTIFICATION.—The Administrator shall—

''(A) review each juvenile crime control and juvenile offender accountability budget request transmitted to the Administrator under paragraph (2);

''(B) certify in writing as to the adequacy of such request in whole or in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, include in the certification an initiative or funding level that would make the request adequate; and

''(C) notify the program manager, agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (B).

''(4) RECORDKEEPING REQUIREMENT.—The Administrator shall maintain records regarding certifications under paragraph (3)(B).

''(5) FUNDING REQUESTS.—The Administrator shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.

''(6) REPROGRAMMING AND TRANSFER REQUESTS.—

''(A) IN GENERAL.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated amounts greater than $5,000,000 that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget unless such request has been approved by the Administrator.

''(B) The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program may appeal to the President any disapproval by the Administrator of a reprogramming or transfer request.

''(7) QUARTERLY REPORTS.—The Administrator shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated amounts for National Juvenile Crime Control and Juvenile Offender Accountability Plan activities.

''(d) INFORMATION, REPORTS, STUDIES, AND SURVEYS FROM OTHER AGENCIES.—The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile crime control and juvenile offender accountability program to provide the Administrator with such information and reports, and to conduct such studies and surveys, as the Administrator determines to be necessary to carry out the purposes of this title.

''(e) UTILIZATION OF SERVICES AND FACILITIES OF OTHER AGENCIES; REIMBURSEMENT.—The Administrator may utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

''(f) COORDINATION OF FUNCTIONS OF ADMINISTRATOR AND SECRETARY OF HEALTH AND HUMAN SERVICES.—All functions of the Administrator under title shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III.

''(g) ANNUAL JUVENILE DELINQUENCY DEVELOPMENT STATEMENTS.—

''(1) IN GENERAL.—The Administrator shall require through appropriate authority each Federal agency that administers a Federal juvenile crime control and juvenile offender accountability program to submit annually to the Office a juvenile crime control and juvenile offender accountability development statement. Such statement shall be in addition to any information, report, study, or survey that the Administrator may require under subsection (d).

''(2) CONTENTS.—Each development statement submitted to the Administrator under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile crime control and juvenile offender accountability prevention and treatment goals and policies.

''(3) REVIEW AND COMMENT.—

''(A) IN GENERAL.—The Administrator shall review and comment upon each juvenile crime control and juvenile offender accountability development statement transmitted to the Administrator under paragraph (1).

''(B) INCLUSION IN OTHER DOCUMENTATION.—Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation that significantly affects juvenile crime control and juvenile offender accountability.

''(h) JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY INCENTIVE BLOCK GRANTS.—

''(1) IN GENERAL.—The Administrator shall make, subject to the availability of appropriations, grants to States to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective investigation, prosecution, and punishment (including the imposition of graduated sanctions) of crimes or acts of delinquency committed by juveniles, programs to improve the administration of justice for and ensure accountability by juvenile offenders, and programs to reduce the risk factors (such as truancy, drug or alcohol use, and gang involvement) associated with juvenile crime or delinquency.

''(2) USE OF GRANTS.—Grants under this title may be used—

''(A) for programs to enhance the identification, investigation, prosecution, and punishment of juvenile offenders, such as—

''(i) the utilization of graduated sanctions;

''(ii) the utilization of short-term confinement of juveniles who are charged with or who are convicted of—

''(I) a crime of violence (as that term is defined in section 16 of title 18, United States Code);

''(II) an offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

''(III) an offense involving possession of a firearm (as that term is defined in section 921(a) of title 18, United States Code); or

''(IV) an offense involving possession of a destructive device (as that term is defined in section 921(a) of title 18, United States Code);

''(iii) the hiring of prosecutors, judges, and probation officers to implement policies to control juvenile crime and ensure accountability of juvenile offenders; and

''(iv) the incarceration of violent juvenile offenders for extended periods of time (including up to the length of adult sentences);

''(B) for programs that provide restitution to the victims of crimes committed by juveniles;

''(C) for programs that require juvenile offenders to attend and successfully complete school or vocational training;

''(D) for programs that require juvenile offenders who are parents to demonstrate parental responsibility by working and paying child support;

''(E) for programs that seek to curb or punish truancy;

''(F) for programs designed to collect, record, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, and DNA tests;

''(G) for programs that provide that, whenever a juvenile who is not less than 14 years of age is adjudicated delinquent, as defined by Federal or State law in a juvenile delinquency proceeding for conduct that, if committed by an adult, would constitute a felony under Federal or State law, the State shall ensure that a record is kept relating to the adjudication that is—

''(i) equivalent to the record that would be kept of an adult conviction for such an offense;

''(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions;

''(iii) made available to law enforcement agencies of any jurisdiction; and

''(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll, and that such officials are held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, under Federal and State law, for handling and disclosing such information;

''(H) for juvenile crime control and prevention programs (such as curfews, youth organizations, antidrug programs, antigang programs, and after school activities) that include a rigorous, comprehensive evaluation component that measures the decrease in risk factors associated with the juvenile crime and delinquency and employs scientifically valid standards and methodologies;

''(I) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and treatment of the most serious juvenile offenses and offenders, sometimes known as a 'SHOCAP Program' (Serious Habitual Offenders Comprehensive Action Program); or

''(J) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and disruption of youth gangs.

''(3) REQUIREMENTS.—To be eligible to receive a grant under this title, a State shall make reasonable efforts, as certified by the Governor, to ensure that, not later than July 1, 2000—

''(A) juveniles age 14 and older can be prosecuted under State law as adults, as a matter of law or prosecutorial discretion for a crime of violence (as that term is defined in section 16 of title 18, United States Code) such as murder or armed robbery, an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or the unlawful possession of a firearm (as that term is defined in section 921(a) of title 18, United States Code) or a destructive device (as that term is defined in section 921(a) of title 18, United States Code);

''(B) the State has in place a system of graduated sanctions for juvenile offenders;

''(C) the State has in place a juvenile court system that treats juvenile offenders uniformly throughout the State;

''(D) the State collects, records, and disseminates information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, and DNA tests (if taken), to other Federal, State, and local law enforcement agencies;

''(E) the State ensures that religious organizations can participate in rehabilitative programs designed to purposes authorized by this title; and

''(F) the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined.

''(j) DISTRIBUTION BY STATE OFFICES TO ELIGIBLE APPLICANTS.—

''(1) IN GENERAL.—Of amounts made available to the State, not more than 20 percent shall be used for programs pursuant to paragraph (2)(ii).

''(2) ELIGIBLE APPLICANTS.—Entities eligible to receive amounts distributed by the State office under this title are—

''(A) a unit of local government;

''(B) local police or sheriff's departments;

''(C) State or local prosecutor's offices;

''(D) State or local courts responsible for the administration of justice in cases involving juvenile offenders;

''(E) schools;

''(F) nonprofit, educational, religious, or community groups active in crime prevention or drug use prevention and treatment; or

''(G) any combination of the entities described in subparagraphs (A) through (F).

''(k) APPLICATION TO STATE OFFICE.—

''(1) IN GENERAL.—To be eligible to receive amounts from the State office, the applicant shall prepare and submit to the State office an application in written form that—

''(A) describes the types of activities and services for which the amount will be provided;

''(B) includes information indicating the extent to which the activities and services achieve the purposes of the title;

''(C) provide for the evaluation component required by subsection (b)(2), which evaluation shall be conducted by an independent entity; and

''(D) provides any other information that the State office may require.

''(2) PRIORITY.—In approving applications under this subsection, the State office should give priority to those applicants demonstrating coordination with, consolidation of, or expansion of existing State or local juvenile crime control and juvenile offender accountability programs.

''(l) FUNDING PERIOD.—The State office may award such a grant for a period of not more than 3 years.

''(m) RENEWAL OF GRANTS.—The State office may renew grants made under this title. After the initial grant period, in determining whether to renew a grant to an entity to carry out activities, the State office shall give substantial weight to the effectiveness of the activities in achieving reductions in crimes committed by juveniles and in improving the administration of justice to juvenile offenders.

''(n) SPECIAL GRANTS.—Of amounts made available under this title in any fiscal year, the Administrator may use—

''(1) not more than 7 percent for grants for research and evaluation;

''(2) not more than 3 percent for grants to Indian tribes for purposes authorized by this title; and

''(3) not more than 5 percent for salaries and expenses of the Office related to administering this title.''.

(c) REPEALS; ADMINISTRATIVE PROVISIONS.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by striking sections 206 and 207 and inserting the following:

''SEC. 206. ALLOCATION OF GRANTS AND AUTHORIZATION OF APPROPRIATIONS.—

''(a) ALLOCATION OF GRANT AMOUNTS.—

''(1) IN GENERAL.—Amounts made available under section 204(h) or part B shall be allocated to the States as follows:

''(A) 0.25 percent shall be allocated to each State; and

''(B) of the total amount remaining after the allocation under subparagraph (A), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the juvenile population of such State bears to the juvenile population of all the States.

''(2) EXCEPTIONS.—The amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 and not more than $100,000.

''(3) REALLOCATION PROHIBITED.—Any amounts appropriated but not allocated due to the ineligibility or nonparticipation of any State shall not be reallocated, but shall revert to the Treasury at the end of the fiscal year for which they were appropriated.

''(4) RESTRICTIONS ON THE USE OF AMOUNTS.—

''(A) EXPERIMENTATION ON INDIVIDUALS.—

''(i) IN GENERAL.—No amounts made available to carry out this title may be used for any biomedical or behavior control experimentation on individuals or any research involving such experimentation.

''(ii) DEFINITION OF 'BEHAVIOR CONTROL'.—In this subparagraph, the term 'behavior control'—

''(I) means any experimentation or research employing methods that—

''(aa) involve a substantial risk of physical or psychological harm to the individual subject; and

''(bb) are intended to modify or alter criminal and other antisocial behavior, including aversive conditioning therapy, drug therapy, chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment; and

''(II) does not include a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

''(B) PROHIBITION AGAINST USE OF AMOUNTS IN CONSTRUCTION.—No amount made available to any public or private agency, or institution or to any individual under this title (either directly or through a State office) may be used for construction, except for minor renovations or additions to an existing structure.

''(C) JOB TRAINING.—No amount made available under this title may be used to carry out a youth employment program to provide subsidized employment opportunities, job training activities, or school-to-work activities for participants.

''(D) LOBBYING.—

''(i) IN GENERAL.—Except as provided in clause (ii), no amount made available under this title to any public or private agency, organization, or institution or to any individual shall be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed

to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or other legislation, or any referendum, initiative, constitutional amendment, or any other procedure of Congress, any State legislature, any local council, or any similar governing body.

''(ii) EXCEPTION.—This subparagraph does not preclude the use of amounts made available under this title in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

''(E) LEGAL ACTION.—No amounts made available under this title to any public or private agency, organization, institution, or to any individual, shall be used in any way directly or indirectly to file an action or otherwise take any legal action against any Federal, State, or local agency, institution, or employee.

''(F) RELIGIOUS ORGANIZATIONS.—

''(i) IN GENERAL.—The purpose of this subparagraph is to allow State and local governments to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in this title, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

''(ii) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—If a State or local government exercises its authority under religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in this title, so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in clause (x), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

''(iii) RELIGIOUS CHARACTER AND FREEDOM.—

''(I) RELIGIOUS ORGANIZATIONS.—A religious organization that participates in a program authorized by this title shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

''(II) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

''(aa) alter its form of internal governance; or

''(bb) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursements, funded under a program described in this title.

''(iv) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—If juvenile offender has an objection to the religious character of the organization or institution from which the juvenile offender receives, or would receive, assistance funded under any program described in this title, the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider.

''(v) EMPLOYMENT PRACTICES.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in this title.

''(vi) NONDISCRIMINATION AGAINST BENEFICIARIES.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in this title on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

''(vii) FISCAL ACCOUNTABILITY.—

''(I) IN GENERAL.—Subject to subclause (II), any religious organization contracting to provide assistance funded under any program described in clause (i)(II) shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

''(II) LIMITED AUDIT.—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

''(viii) COMPLIANCE.—Any party which seeks to enforce its rights under this subparagraph may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

''(ix) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to institutions or organizations to provide services and administer programs under this title shall be expended for sectarian worship, instruction, or proselytization.

''(x) PREEMPTION.—Nothing in this subparagraph shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

''(5) PENALTIES.—

''(A) IN GENERAL.—If any amounts are used for the purposes prohibited in either subparagraph (D) or (E) of paragraph (4)—

''(i) all funding for the agency, organization, institution, or individual at issue shall be immediately discontinued;

''(ii) the agency, organization, institution, or individual using amounts for the purpose prohibited in subparagraph (D) or (E) of paragraph (4) shall be liable for reimbursement of all amounts granted to the individual or entity for the fiscal year for which the amounts were granted.

''(B) LIABILITY FOR EXPENSES AND DAMAGES.—In relation to a violation of paragraph (4)(D), the individual filing the lawsuit or responsible for taking the legal action against the Federal, State, or local agency or institution, or individual working for the Government, shall be individually liable for all legal expenses and any other expenses of the government agency, institution, or individual working for the Government, including damages assessed by the jury against the Government agency, institution, or individual working for the government, and any punitive damages.

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this title—

''(A) $650,000,000 for fiscal year 1998;

''(B) $650,000,000 for fiscal year 1999;

''(C) $650,000,000 for fiscal year 2000;

''(D) $650,000,000 for fiscal year 2001; and

''(E) $650,000,000 for fiscal year 2002.

''(2) ALLOCATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated under paragraph (1) in each fiscal year—

''(A) $500,000,000 shall be for programs under section 204(h); and

''(B) $150,000,000 shall be for programs under part B.

''(3) AVAILABILITY OF FUNDS.—Amounts made available pursuant to this subsection, and allocated pursuant to paragraph (1) in any fiscal year shall remain available until expended.

''SEC. 207. ADMINISTRATIVE PROVISIONS.

''(a) AUTHORITY OF ADMINISTRATOR.—The Office shall be administered by the Administrator under the general authority of the Attorney General.

''(b) APPLICABILITY OF CERTAIN CRIME CONTROL PROVISIONS.—Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d(c), 3789f(a), 3789f(b), 3789f(c), 3789g(a), 3789g(b), 3789g(d)) shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

''(1) any reference to the Office of Justice Programs in such sections shall be considered to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

''(2) the term 'this title' as it appears in such sections shall be considered to be a reference to this Act.

''(c) APPLICABILITY OF CERTAIN OTHER CRIME CONTROL PROVISIONS.—Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a), 3711(c), and 3787) shall apply with respect to the administration of and compliance with this Act, except that, for purposes of this Act—

''(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be considered to be a reference to the Administrator;

''(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be considered to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

''(3) the term 'this title' as it appears in such sections shall be considered to be a reference to this Act.

''(d) RULES, REGULATIONS, AND PROCEDURES.—The Administrator may, after appropriate consultation with representatives of States and units of local government, establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

''(e) WITHHOLDING.—The Administrator shall initiate such proceedings as the Administrator determines to be appropriate if the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

''(1) the program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or

''(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title.'';

(2) in part B—

(A) in section 221(b)—

(i) in paragraph (1)—

(I) by striking ''section 223'' and inserting ''section 222''; and

(II) by striking ''section 223(c)'' and inserting ''section 222(c)''; and

(ii) in paragraph (2), by striking ''section 299(c)(1)'' and inserting ''section 222(a)(1)''; and

(B) by striking sections 222 and 223 and inserting the following:

''SEC. 222. STATE PLANS.

''(a) IN GENERAL.—In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. The State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall—

''(1) designate a State agency as the sole agency for supervising the preparation and administration of the plan;

''(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

''(3) provide for the active consultation with and participation of units of general local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of local governments, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies, including religious organizations;

''(4) provide that the chief executive officer of the unit of general local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure or to a regional planning agency (in this part referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

''(5)(A) provide for—

''(i) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the jurisdiction;

''(ii) an indication of the manner in which the programs relate to other similar State or local programs which are intended to address the same or similar problems; and

''(iii) a plan for the concentration of State efforts which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

''(B) contain—

''(i) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

''(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

''(C) contain—

''(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

''(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;

''(6) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, special education, recreation, health, and welfare within the State;

''(7) provide for the development of an adequate research, training, and evaluation capacity within the State;

''(8) provide that not less than 75 percent of the funds made available to the State pursuant to grants under section 221, whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

''(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

''(i) for youth who can remain at home with assistance, home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

''(ii) for youth who need temporary placement, crisis intervention, shelter, and aftercare; and

''(iii) for youth who need residential placement, a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

''(B) community-based programs and services to work with—

''(i) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

''(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

''(iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

''(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

''(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;

''(E) educational programs or supportive services for delinquent or other juveniles, provided equitably regardless of sex, race, or family income, designed to—

''(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

''(I) education in settings that promote experiential, individualized learning and exploration of academic and career options;

''(II) assistance in making the transition to the world of work and self-sufficiency;

''(III) alternatives to suspension and expulsion; and

''(IV) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education provides; and

''(ii) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

''(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

''(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

''(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

''(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

''(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

''(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

''(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

''(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

''(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

''(i) a sense of safety and structure;

''(ii) a sense of belonging and membership;

''(iii) a sense of self-worth and social contribution;

''(iv) a sense of independence and control over one's life;

''(v) a sense of closeness in interpersonal relationships; and

''(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

''(M) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

''(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked

to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

''(ii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

''(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration; and

''(O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

''(9) provide for the development of an adequate research, training, and evaluation capacity within the State;

''(10) provide that the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined;

''(11) provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of paragraph (10) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (10), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

''(12) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;

''(13) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

''(14) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

''(15) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

''(16) provide reasonable assurances that Federal funds made available under this part for any period shall be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and shall in no event replace such State, local, and other non-Federal funds; and

''(17) provide that the State agency designated under paragraph (1) will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary.

''(b) APPROVAL BY STATE AGENCY.—The State agency designated under subsection (a)(1) shall approve the State plan and any modification thereof prior to submission to the Administrator.

''(c) APPROVAL BY ADMINISTRATOR; COMPLIANCE WITH STATUTORY REQUIREMENTS.—

''(1) IN GENERAL.—The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

''(2) REDUCED ALLOCATIONS.—If a State fails to comply with any requirement of subsection (a)(8) in any fiscal year beginning after January 1, 1998, the State shall be ineligible to receive any allocation under that section for such fiscal year unless—

''(A) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with subsection (a)(4)(C)) for that fiscal year only to achieve compliance with such paragraph; or

''(B) the Administrator determines, in the discretion of the Administrator, that the State—

''(i) has achieved substantial compliance with such paragraph; and

''(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time.''; and

(3) by striking parts C, D, E, F, G, and H, and each part designated as part I.

SEC. 303. RUNAWAY AND HOMELESS YOUTH.

Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996'' and inserting ''1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002''; and

(B) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in subsection (b), by striking ''1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996'' and inserting ''1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002''; and

(3) in subsection (c), by striking ''1993, 1994, 1995, and 1996'' and inserting ''1998, 1999, 2000, 2001, and 2002''.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) in section 403, by striking paragraph (2) and inserting the following:

''(2) the term 'Administrator' means the Administrator of the Office of Juvenile Crime Control and Accountability.'';

(2) by striking section 404; and

(3) in section 408, by striking ''1993, 1994, 1995, and 1996'' and inserting ''1998, 1999, 2000, 2001, and 2002''.

SEC. 305. REPEAL.

Title V of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781 et seq.) is repealed.

SEC. 306. TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS.

(a) DEFINITIONS.—In this section, unless otherwise provided or indicated by the context—

(1) the term ''Administrator of the Office'' means the Administrator of the Office of Juvenile Justice and Delinquency Prevention;

(2) the term ''Bureau of Justice Assistance'' means the bureau established under section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968;

(3) the term ''Administrator'' means the Administrator of the Office of Juvenile Crime Control and Accountability established by operation of subsection (b);

(4) the term ''Federal agency'' has the meaning given the term ''agency'' by section 551(1) of title 5, United States Code;

(5) the term ''function'' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(6) the term ''Office of Juvenile Crime Control and Accountability'' means the office established by operation of subsection (b);

(7) the term ''Office of Juvenile Justice and Delinquency Prevention'' means the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice, established by section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974, as in effect on the day before the date of enactment of this Act; and

(8) the term ''office'' includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Office of Juvenile Crime Control and Accountability all functions that the Administrator of the Office exercised before the date of enactment of this Act (including all related functions of any officer or employee of the Office of Juvenile Justice and Delinquency Prevention), and authorized after the enactment of this Act, relating to carrying out the Juvenile Justice and Delinquency Prevention Act of 1974.

(c) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided in this section and in section 101(a) (relating to Juvenile Justice Programs) of the Omnibus Consolidated Appropriations Act, 1997, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office of Juvenile Crime Control and Accountability.

(2) UNEXPENDED AMOUNTS.—Any unexpended amounts transferred pursuant to this subsection shall be used only for the purposes for which the amounts were originally authorized and appropriated.

(d) INCIDENTAL TRANSFERS.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, at such time or times as the Director of that Office shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section.

(2) TERMINATION OF AFFAIRS.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(e) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day before the date of enactment of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Office of Juvenile Crime Control and Accountability to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(3) TRANSITION RULE.—

(A) IN GENERAL.—The incumbent Administrator of the Office as of the date immediately preceding the date of enactment of this Act shall continue to serve as Administrator after the enactment of this Act until such time as the incumbent resigns, is relieved of duty by the President, or an Administrator is appointed by the President, by and with the advice and consent of the Senate.

(B) NOMINEE.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Senate for consideration the name of the individual nominated to be appointed as the Administrator.

(f) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that are in effect at the time this section takes effect, or were final before the date of enactment of this Act and are to become effective on or after the date of enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—

(A) IN GENERAL.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Office of Juvenile Justice and Delinquency Prevention on the date on which this section takes effect, with respect to functions transferred by this section but such proceedings and applications shall be continued.

(B) ORDERS; APPEALS; PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings 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.

(C) DISCONTINUANCE OR MODIFICATION.—Nothing in this paragraph shall be construed 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 paragraph had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the date of enactment of this Act, 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 section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Office of Juvenile Justice and Delinquency Prevention, or by or against any individual in the official capacity of such individual as an officer of the Office of Juvenile Justice and Delinquency Prevention, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Office of Juvenile Justice and Delinquency Prevention relating to a function transferred under this section may be continued, to the extent authorized by this section, by the Office of Juvenile Crime Control and Accountability with the same effect as if this section had not been enacted.

(g) TRANSITION.—The Administrator may utilize—

(1) the services of such officers, employees, and other personnel of the Office of Juvenile Justice and Delinquency Prevention with respect to functions transferred to the Office of Juvenile Crime Control and Accountability by this section; and

(2) amounts appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(h) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Administrator of the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Administrator of the Office of Juvenile Crime Control and Accountability; and

(2) the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Office of Juvenile Crime Control and Accountability.

(i) TECHNICAL AND CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking ''Administrator, Office of Juvenile Crime Control and Accountability''.

SEC. 307. REPEAL OF UNNECESSARY AND DUPLICATIVE PROGRAMS.

(a) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(1) TITLE III.—Title III of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13741 et seq.) is amended by striking subtitles A through S, subtitle U, and subtitle X.

(2) TITLE V.—Title V of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 3797 et seq.) is repealed.

(3) TITLE XXVII.—Title XXVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14191 et seq.) is repealed.

(b) ELEMENTARY AND SECONDARY EDUCATION ACT.—

(1) TITLE IV.—Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101) is repealed.

(2) TITLE V.—Part C of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7261 et seq.) is repealed.

(d) PUBLIC HEALTH SERVICE ACT.—Section 517 of the Public Health Service Act (42 U.S.C. 290bb–23) is repealed.

(e) HUMAN SERVICES REAUTHORIZATION ACT.—Section 408 of the Human Services Reauthorization Act is repealed.

(f) COMMUNITY SERVICES BLOCK GRANTS ACT.—Section 682 of the Community Services Block Grants Act (42 U.S.C. 9901) is repealed.

(g) ANTI-DRUG ABUSE ACT.—Subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801 et seq.) is amended by striking chapters 1 and 2.

SEC. 308. HOUSING JUVENILE OFFENDERS.

Section 20105(a)(1) of subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(a)(1)) is amended by striking ''15'' and inserting ''30''.

SEC. 309. CIVIL MONETARY PENALTY SURCHARGE.

(a) IMPOSITION.—Subject to subsection (b) and notwithstanding any other provision of law, a surcharge of 40 percent of the principal amount of a civil monetary penalty shall be added to each civil monetary penalty assessed by the United States or any agency thereof at the time the penalty is assessed.

(b) LIMITATION.—This section does not apply to any monetary penalty assessed under the Internal Revenue Code of 1986.

(c) USE OF SURCHARGES.—Amounts collected from the surcharge imposed under this section shall be used for Federal programs to combat youth violence.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—A surcharge under subsection (b) shall be added to each civil monetary penalty assessed on or after the later of October 1, 1997 and the date of enactment of this Act.

(2) EXPIRATION OF AUTHORITY.—The authority to add a surcharge under this subsection shall terminate at the close of September 30, 2002.

By Mr. DASCHLE (for himself, Mr. FORD, Mr. GLENN, Mr. LEVIN, Ms. MIKULSKI, Mr. REID, Ms. MOSELEY-BRAUN, Mr. DURBIN, Mr. WELLSTONE, Mr. KERRY, and Mr. LAUTENBERG):

S. 11. A bill to reform the Federal election campaign laws applicable to Congress; to the Committee on Rules and Administration.

CONGRESSIONAL ELECTION CAMPAIGN SPENDING LIMIT AND REFORM ACT OF 1997

Mr. LEVIN. Mr. President, this Congress faces no more important task in these first few months than passing legislation to reform the campaign finance system. We just witnessed the most expensive campaign in the history of our country. According to the Washington Post, both major political party committees raised over $880 million in 1995 and 1996. That is estimated to be a 73 percent increase since the last Presidential election cycle.

The increase in ''soft'' money raised by the parties during that same period was threefold—a 300 percent increase in ''soft'' money raised by the parties. The Washington Post again estimates that ''soft'' money contributions for 1995 and 1996 for Democrats was about $122 million, ''soft'' money contributions for Republicans was about $141 million. For a system that was supposed to eliminate contributions from

corporations and unions, we have seen corporations and unions contribute or spend millions of dollars to aid in the election or defeat of congressional and Presidential candidates.

For a system that was supposed to cap contributions from individuals at no more than $25,000 a year to national political parties and individual campaigns combined, we have seen hundreds of contributions from individuals to both parties that equal or exceed $100,000. For a system that was supposed to require that campaign advertisements be paid for with money subject to the contribution restrictions of our campaign finance laws, we have seen probably hundreds of commercials, many of which had a significant impact on the outcome of elections in which they were run, hundreds of commercials paid for with unregulated, unrestricted, undisclosed, so-called ''soft'' money.

For the vast majority of these ads, the public does not know the basic facts of who contributed to the payments for these ads or how much was spent to air them. For years, we have pretended that we actually have had somewhat meaningful restrictions on campaign contributions. But with this past election cycle, the facade has fallen and we are faced with the naked truth that this system is wide open.

That is why I am joining with Senator DASCHLE today in sponsoring his proposal for campaign finance reform which would eliminate or rein in many of the worst loopholes in the current system including the raising and spending of unregulated or ''soft'' money, independent expenditures by national parties, and campaign ads which masquerade as so-called issue ads.

Senator DASCHLE's bill is a comprehensive response to the problem and on balance it is an achievable and meaningful reform proposal. Senator DASCHLE has incorporated in his bill several provisions that I authored dealing with issue ads and independent expenditures by parties. The approach that my provision in this bill takes with respect to so-called issue ads is to redefine ''express advocacy'' to include any advertising broadcast on radio or television 90 days before a primary or general election which specifically mentions a candidate.

The Supreme Court has tried to draw a bright line in defining ''express advocacy'' by applying it only to those ads which include certain magic phrases like ''Vote for Mrs. X'' or ''Defeat Mr. Y.'' Such a test though leaves out ads which target a specific candidate and do not use the magic words that deliver the same message—for example, an ad that says, ''Write to candidate Z and let him know how you feel'' about an issue, which the ad has just strongly advocated or attacked.

Now, my approach would treat any broadcast ad, any broadcast ad that appears within 90 days of an election in which a candidate is explicitly mentioned as ''express advocacy'' and payable therefore out of regulated funds. The approach which my provision takes with respect to independent expenditures by a party is to require a party to choose between making coordinated expenditures on behalf of a candidate or making independent expenditures. A party would not be allowed to have it both ways. And that is because it is impossible, practically speaking, for a national party to be truly independent from a candidate if it is also engaged in coordinated expenditures on that candidate's behalf. To argue otherwise defies common sense. It is one way or the other. If there is a coordinated campaign on the candidate's behalf, it is kind of hard to argue that that same national party can engage in coordinated expenditures relative to that campaign.

We should not delay the consideration of campaign finance reform legislation, but we can always find a reason not to do it. This year there is a new reason. I have heard the suggestion that we should put off consideration of campaign finance reform until the hearings before the Governmental Affairs Committee on campaign finance irregularities are finished, but the argument for delay has been used in one form or another for many, many Congresses and our job now is to show the American people that we can do it and we can do it now.

The typical sophisticated analysis of the likelihood of campaign finance reform is that any reform is virtually impossible. ''It will not happen,'' you hear among those so-called well-informed folks. ''The gap simply cannot be bridged,'' some people say.

We witnessed the end of the cold war 5 years ago. No one ever thought that was going to end. If we can achieve the end of the nuclear arms race, we surely can achieve the end of the money race in the American campaign system. I think most of us—and I, surely—want to be part of that effort. I want to do whatever it takes to facilitate action now. That is why I will be introducing in the next few days a more limited form of campaign finance reform to address certain limited, specific, but extensive abuses. Then, if we come to loggerheads over a comprehensive approach with more limited bills being offered as backups, there will be no excuse to not tackle at least some of the more pressing problems.

Let me take a minute, Mr. President, to show you how out of kilter this system has become. There's an article in today's Roll Call about the treatment of the Business Roundtable by the Republican Party. Now the Business Roundtable, which is an organization of the biggest and most influential corporations in America, doesn't need me or anybody else, probably, to stand up for it. I am sure it can handle itself quite adequately when it is picked on. But when you have the Republican Party calling in 24 CEO's of companies who are members of the Business Roundtable to begin the ''process of behavior modification'' according to the persons who spoke to Roll Call, you've got a serious problem.

According to Roll Call,

> Still angry that big business failed to adequately bankroll their campaigns and counter the AFL–CIO's onslaught of attack ads last fall, the Republicans want the BRT (Business Roundtable) to purge Democrats from its staff of nine directors.

''You have to fix the problem. You have to fix the Business Roundtable,'' one Republican source said, according to Roll Call, ''explaining that the GOP leadership is urging the prestigious organization of corporate bigwigs to purge its staff.''

The article goes on.

> The lawmakers are also urging the CEOs of some 200 corporations that comprise the BRT to dump their Democratic lobbyists, hire Republicans, and significantly increase the percentage of PAC contributions that go to GOP candidates.

Later on, the article says,

> If the Republicans can get the BRT to change its ways the payoff could be big. Just as Willie Sutton robbed banks because ''that's where the money is,'' the GOP Congressional leaders realize that BRT members could handily boost Republican election efforts if the BRT would agree to fund issue-advocacy campaigns in future elections.

What a sad state of affairs, Mr. President. Congressional leaders, according to this article, are trying to pressure a private organization as to whom its members should employ to lobby their offices, the amount of support these corporations should give to their party activities and how they should spend their money to influence elections on issue ads. And it is all done with what seems to be a threat—a ''do this or else'' attitude.

The Wall Street Journal, reporting on this CEO meeting, suggests that the threat is more explicit than implied. The Wall Street Journal of January 9, 1997, reported:

> Companies that want to have it both ways, vows one top GOP strategist, no longer will be involved in Republican decision-making ''or invited to our cocktail parties.''

And this action is not because the Business Roundtable did not contribute to Republican candidates. No, according to the Wall Street Journal, the BRT gave twice as much to Republicans as they did to Democrats—$25 million to Republicans and only $11 million to Democrats. It is not enough that the BRT members already give to Republicans, they ''should give a bigger percentage to the Republicans'' than they are now giving, according to Haley Barbour, the Republican Party Chairman.

This is punishment, Mr. President, to be imposed on an organization by party and Congressional leaders. That is the message behind this action—no money, no access—and it looks awful. That is how far we have come in this scramble for campaign money, and that is why we have to make the effort now to get going on campaign finance reform.

Mr. President, I ask unanimous consent the two articles I referred to be printed in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 11

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the ''Congressional Election Campaign Spending Limit and Reform Act of 1997''.

(b) TABLE OF CONTENTS.—

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

''SEC. 501. DEFINITIONS.

''In this title:

''(1) ELIGIBLE SENATE CANDIDATE.—The term 'eligible Senate candidate' means a candidate who is certified under section 505 as being eligible to receive benefits under this title.

''(2) EXCESS EXPENDITURE AMOUNT.—The term 'excess expenditure amount', with respect to an eligible Senate candidate, means the amount applicable to the eligible Senate candidate under section 504(b).

''(3) EXPENDITURE.—The term 'expenditure' has the meaning given in paragraph (9) of section 301, excluding subparagraph (B)(ii) of that paragraph.

''(4) GENERAL ELECTION EXPENDITURE LIMIT.—The term 'general election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 503(b).

''(5) PERSONAL FUNDS EXPENDITURE LIMIT.—The term 'personal funds expenditure limit' means the limit stated in section 503(a).

''(6) PRIMARY ELECTION EXPENDITURE LIMIT.—The term 'primary election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 502(d)(1)(A).

''(7) RUNOFF ELECTION EXPENDITURE LIMIT.—The term 'runoff election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 502(d)(1)(B).

''SEC. 502. ELIGIBLE SENATE CANDIDATES.

''(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

''(1) files a primary election eligibility declaration under subsection (b) and is in compliance with the representations made in the declaration;

''(2) files a general election eligibility certification and declaration under subsection (c) and is in compliance with the representations made in the certification and declaration; and

''(3) meets the threshold contribution requirements of subsection (e).

''(b) PRIMARY ELECTION ELIGIBILITY DECLARATION.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

''(A) the candidate and the candidate's authorized committees—

''(i) will meet the primary and runoff election expenditure limits of subsection (d); and

''(ii) will accept only an amount of contributions for the primary and runoff elections that does not exceed those limits;

''(B) the candidate and the candidate's authorized committees will meet the personal funds expenditure limit;

''(C) the candidate and the candidate's authorized committees will meet the general election expenditure limit; and

''(D) the candidate and the candidate's authorized committees will meet the closed captioning requirements of section 510.

''(2) DEADLINE FOR FILING DECLARATION.—The declaration under paragraph (1) shall be filed not later than the date on which the candidate files as a candidate for the primary election.

''(c) GENERAL ELECTION ELIGIBILITY CERTIFICATION AND DECLARATION.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate—

''(A) a certification, under penalty of perjury, that—

''(i) the candidate and the candidate's authorized committees—

''(I) met the primary and runoff election expenditure limits under subsection (d); and

''(II) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable, reduced by any amounts transferred to the current election cycle from a preceding election cycle;

''(ii) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement; and

''(iii) at least 1 other candidate has qualified for the same general election ballot under the law of the candidate's State; and

''(B) a declaration that the candidate and the authorized committees of the candidate—

''(i) except as otherwise provided by this title, will not make expenditures that exceed the general election expenditure limit;

''(ii) will not accept any contributions in violation of section 315;

''(iii) except as otherwise provided by this title, will not accept any contribution for

the general election to the extent that the contribution would cause the aggregate amount of contributions to exceed the sum of the amount of the general election expenditure limit and the amounts described in subsections (c), (d), and (e) of section 503, reduced by any amounts transferred to the current election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii)(II);

''(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

''(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission;

''(vi) will cooperate in the case of any audit and examination by the Commission under section 506 and will pay any amounts required to be paid under that section; and

''(vii) will meet the closed captioning requirements of section 510.

''(2) DEADLINE FOR FILING CERTIFICATION.—The certification under paragraph (1) shall be filed not later than 7 days after the earlier of—

''(A) the date on which the candidate qualifies for the general election ballot under State law; or

''(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

''(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—

''(1) IN GENERAL.—The requirements of this subsection are met if—

''(A) the candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

''(i) 67 percent of the general election expenditure limit; or

''(ii) $2,750,000; and

''(B) the candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit.

''(2) INDEXING.—The $2,750,000 amount under paragraph (1)(A)(ii) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that the base period shall be calendar year 1996.

''(3) INCREASE.—The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, the candidate during the primary or runoff election period, whichever is applicable, that are required to be reported to the Secretary of the Senate or to the Commission with respect to that period under section 304.

''(4) EXCESS AMOUNT OF CONTRIBUTIONS.—

''(A) IN GENERAL.—If the contributions received by a candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either election—

''(i) the excess amount of contributions shall be treated as contributions for the general election; and

''(ii) expenditures for the general election may be made from the excess amount of contributions.

''(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that treatment of excess contributions in accordance with subparagraph (A)—

''(i) would result in the violation of any limitation under section 315; or

''(ii) would cause the aggregate amount of contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

''(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 5 percent of the general election expenditure limit.

''(2) DEFINITIONS.—In this section and subsections (b) and (c) of section 504:

''(A) ALLOWABLE CONTRIBUTION.—The term 'allowable contribution' means a contribution that is made as a gift of money by an individual pursuant to a written instrument identifying the individual as the contributor.

''(B) APPLICABLE PERIOD.—The term 'applicable period' means—

''(i) the period beginning on January 1 of the calendar year preceding the calendar year of a general election and ending on—

''(I) the date on which the certification under subsection (c) is filed by the candidate; or

''(II) for purposes of subsections (b) and (c) of section 504, the date of the general election; or

''(ii) in the case of a special election for the office of United States Senator, the period beginning on the date on which the vacancy in the office occurs and ending on the date of the general election.

''SEC. 503. LIMIT ON EXPENDITURES.

''(a) PERSONAL FUNDS EXPENDITURE LIMIT.—

''(1) IN GENERAL.—The aggregate amount of expenditures that may be made during an election cycle by an eligible Senate candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $25,000.

''(2) SOURCES.—A source is described in this paragraph if it is—

''(A) personal funds of the candidate or a member of the candidate's immediate family; or

''(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

''(b) GENERAL ELECTION EXPENDITURE LIMIT.—

''(1) IN GENERAL.—Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

''(A) $5,500,000; or

''(B) the greater of—

''(i) $1,200,000; or

''(ii) $400,000; plus

''(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

''(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

''(2) EXCEPTION.—In the case of an eligible Senate candidate in a State that has not more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

''(A) '92 cents' for '30 cents' in subclause (I); and

''(B) '90 cents' for '25 cents' in subclause (II).

''(3) INDEXING.—The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for the calendar year under section 502(d)(2).

''(c) LEGAL AND ACCOUNTING COMPLIANCE FUND.—

''(1) IN GENERAL.—The general election expenditure limit, shall not apply to qualified legal or accounting expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a legal and accounting compliance fund meeting the requirements of paragraph (2).

''(2) REQUIREMENTS.—A legal and accounting compliance fund meets the requirements of this paragraph if—

''(A) the fund is established with respect to qualified legal or accounting expenditures incurred with respect to a particular election;

''(B) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

''(C) the aggregate amounts transferred to, and expenditures made from, the fund do not exceed the sum of—

''(i) the lesser of—

''(I) 15 percent of the general election expenditure limit for the election for which the fund was established; or

''(II) $300,000; plus

''(ii) the amount determined under paragraph (4); and

''(D) no funds received by the candidate under section 504(a)(3) are transferred to the fund.

''(3) DEFINITION OF QUALIFIED LEGAL OR ACCOUNTING EXPENDITURE.—For purposes of this subsection, the term 'qualified legal or accounting expenditure' means—

''(A) an expenditure for costs of legal or accounting services provided in connection with—

''(i) an administrative or court proceeding initiated under this Act for the election for which the legal and accounting fund was established; or

''(ii) the preparation of a document or report required by this Act or by the Commission;

''(B) an expenditure for legal or accounting service provided in connection with the election cycle for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle.

''(4) INCREASE.—

''(A) PETITION.—If, after a general election, primary election, or runoff election, a candidate determines that qualified legal or accounting expenditures will exceed the limit under paragraph (2)(C)(i), the candidate may petition the Commission for an increase in the limit by filing the petition with the Secretary of the Senate.

''(B) DETERMINATION.—The Commission shall authorize an increase in the limit under paragraph (2)(C)(i) in the amount (if any) by which the Commission determines the qualified legal or accounting expenditures exceed the limit.

''(C) JUDICIAL REVIEW.—A determination under subparagraph (B) shall be subject to judicial review under section 507.

''(D) CONTRIBUTIONS AND EXPENDITURES NOT COUNTED.—Except as provided in section 315, a contribution received or expenditure made under this paragraph shall not be counted against any contribution or expenditure limit applicable to the candidate under this title.

''(5) TREATMENT.—Funds in a legal and accounting compliance fund shall be treated for purposes of this Act as a separate segregated fund, except that any portion of the fund not used to pay qualified legal or accounting expenditures, and not transferred to a legal and accounting compliance fund for the election cycle for the next general election, shall be treated in the same manner as other campaign funds for purposes of section 313(b).

''(d) PAYMENT OF TAXES ON EARNINGS.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local income taxes on the earnings of a candidate's authorized committees.

''(e) CERTAIN EXPENSES.—In the case of an eligible Senate candidate who holds a Federal office, the limitation under subsection (b) shall not apply to ordinary and necessary expenses of travel of the candidate and the candidate's spouse and children between Washington, District of Columbia, and the candidate's State in connection with the candidate's activities as a holder of Federal office.

"SEC. 504. BENEFITS FOR ELIGIBLE SENATE CANDIDATES.

''(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

''(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934; and

''(2) payments in an amount equal to—

''(A) the excess expenditure amount determined under subsection (b); and

''(B) the independent expenditure amount determined under subsection (c).

''(b) EXCESS EXPENDITURE AMOUNT.—

''(1) DETERMINATION.—The excess expenditure amount is—

''(A) in the case of a major party candidate, an amount equal to the sum of—

''(i) if the opponent's excess is less than 33⅓ percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; plus

''(ii) if the opponent's excess equals or exceeds 33⅓ percent but is less than 66⅔ percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; plus

''(iii) if the opponent's excess equals or exceeds 66⅔ percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; and

''(B) in the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the least of—

''(i) the amount of allowable contributions accepted by the eligible Senate candidate during the applicable period in excess of the threshold contribution requirement under section 502(e);

''(ii) 50 percent of the general election expenditure limit; or

''(iii) the opponent's excess.

''(2) DEFINITION OF OPPONENT'S EXCESS.—In this subsection, the term 'opponent's excess' means the amount by which an opponent of an eligible Senate candidate in the general election accepts contributions or makes (or obligates to make) expenditures for the election in excess of the general election expenditure limit.

''(c) INDEPENDENT EXPENDITURE AMOUNT.—The independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate that are required to be reported by the persons under section 304(d) with respect to the general election period and are certified by the Commission under section 304(d).

''(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—

''(1) RECIPIENTS OF EXCESS EXPENDITURE AMOUNT PAYMENTS AND INDEPENDENT EXPENDITURE AMOUNT PAYMENTS.—

''(A) IN GENERAL.—An eligible Senate candidate who receives payments under subsection (a)(2) may make expenditures from the payments for the general election without regard to the general election expenditure limit.

''(B) NONMAJOR PARTY CANDIDATES.—In the case of an eligible Senate candidate who is not a major party candidate, the general election expenditure limit shall be increased by the amount (if any) by which the opponent's excess expenditure amount exceeds the amount determined under subsection (b)(2)(B) with respect to the candidate.

''(2) ALL BENEFIT RECIPIENTS.—

''(A) IN GENERAL.—An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to the personal funds expenditure limit or general election expenditure limit if any 1 of the eligible Senate candidate's opponents who is not an eligible Senate candidate raises an amount of contributions or makes or becomes obligated to make an amount of expenditures for the general election that exceeds 200 percent of the general election expenditure limit.

''(B) LIMITATION.—The amount of the expenditures that may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit.

''(3) ACCEPTANCE OF CONTRIBUTION WITHOUT REGARD TO SECTION 502(C)(1)(D)(III).—

''(A) A candidate who receives benefits under this section may accept a contribution for the general election without regard to section 502(c)(1)(D)(iii) if—

''(i) a major party candidate in the same general election is not an eligible Senate candidate; or

''(ii) any other candidate in the same general election who is not an eligible Senate candidate raises an amount of contributions or makes or becomes obligated to make an amount of expenditures for the general election that exceeds 75 percent of the general election expenditure limit applicable to such other candidate.

''(B) LIMITATION.—The amount of contributions that may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit.

''(e) USE OF PAYMENTS.—

''(1) PERMITTED USE.—Payments received by an eligible Senate candidate under subsection (a)(2) shall be used to make expenditures with respect to the general election period for the candidate.

''(2) PROHIBITED USE.—Payments received by an eligible Senate candidate under subsection (a)(2) shall not be used—

''(A) except as provided in paragraph (4), to make any payments, directly or indirectly, to the candidate or to any member of the immediate family of the candidate;

''(B) to make any expenditure other than an expenditure to further the general election of the candidate;

''(C) to make an expenditure the making of which constitutes a violation of any law of the United States or of the State in which the expenditure is made; or

''(D) subject to section 315(i), to repay any loan to any person except to the extent that proceeds of the loan were used to further the general election of the candidate.

"SEC. 505. CERTIFICATION BY THE COMMISSION.

''(a) CERTIFICATION OF STATUS AS ELIGIBLE SENATE CANDIDATE.—

''(1) IN GENERAL.—The Commission shall certify to any candidate meeting the requirements of section 502 that the candidate is an eligible Senate candidate entitled to benefits under this title.

''(2) REVOCATION.—The Commission shall revoke a certification under paragraph (1) if the Commission determines that a candidate fails to continue to meet the requirements of section 502.

''(b) CERTIFICATION OF ELIGIBILITY TO RECEIVE BENEFITS.—

''(1) IN GENERAL.—Not later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 504, the Commission shall issue a certification stating whether the candidate is eligible for payments under this title and the amount of such payments to which such candidate is entitled.

''(2) CONTENTS OF REQUEST.—A request under paragraph (1) shall—

''(A) contain such information and be made in accordance with such procedures as the Commission may provide by regulation; and

''(B) contain a verification signed by the candidate and the treasurer of the principal campaign committee of the candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

''(c) DETERMINATIONS BY THE COMMISSION.—All determinations made by the Commission under this title (including certifications under subsections (a) and (b)) shall be final and conclusive, except to the extent that a determination is subject to examination and audit by the Commission under section 506 and judicial review under section 507.

"SEC. 506. EXAMINATIONS AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

''(a) EXAMINATIONS AND AUDITS.—

''(1) AFTER A GENERAL ELECTION.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of all candidates in 5 percent of the elections to the Senate in which there was an eligible Senate candidate on the ballot, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

''(2) AFTER A SPECIAL ELECTION.—After each special election in which an eligible Senate candidate was on the ballot, the Commission shall conduct an examination and audit of the campaign accounts of all candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

''(3) WITH REASON TO BELIEVE THERE MAY HAVE BEEN A VIOLATION.—The Commission may conduct an examination and audit of the campaign accounts of any eligible Senate candidate in a general election if the Commission determines that there exists reason to believe that the eligible Senate candidate failed to comply with this title.

''(b) EXCESS PAYMENT.—If the Commission determines any payment was made to an eligible Senate candidate under this title in excess of the aggregate amounts to which the eligible Senate candidate was entitled, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the excess.

''(c) REVOCATION OF STATUS.—If the Commission revokes the certification of an eligible Senate candidate as an eligible Senate candidate under section 505(a)(1), the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the payments received under this title.

''(d) MISUSE OF BENEFIT.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay the amount of that amount.

''(e) EXCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate who received benefits under this title made expenditures that in the aggregate exceed the primary election expenditure, the runoff election expenditure limit,

or the general election expenditure limit, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the amount of the excess expenditures.

''(f) CIVIL PENALTIES.—

''(1) MISUSE OF BENEFIT.—If the Commission determines that an eligible Senate candidate has committed a violation described in subsection (d), the Commission may assess a civil penalty against the eligible Senate candidate in an amount not greater than 200 percent of the amount of the benefit that was misused.

''(2) EXCESS EXPENDITURES.—

''(A) LOW AMOUNT OF EXCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by 2.5 percent or less the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to the amount of the excess expenditures.

''(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by more than 2.5 percent and less than 5 percent the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to 3 times the amount of the excess expenditures.

''(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by 5 percent or more the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to the amount of the excess expenditures an amount equal to the sum of—

''(i) 3 times the amount of the excess expenditures plus an additional amount determined by the Commission; plus

''(ii) if the Commission determines that the exceeding of the expenditure limit was willful, an amount equal to the amount of benefits that the eligible Senate candidate received under this title.

''(g) UNEXPENDED FUNDS.—

''(1) REPAYMENT.—Subject to paragraph (2), any amount received by an eligible Senate candidate under this title and not expended on or before the date of the general election shall be repaid not later than 30 days after the date of the general election.

''(2) RETENTION FOR PURPOSES OF LIQUIDATION OF OBLIGATIONS.—An eligible Senate candidate may retain for a period not exceeding 120 days after the date of a general election a reasonable portion of unexpended funds received under this title for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of the 120-day period, any unexpended funds received under this title shall be promptly repaid.

''(h) PAYMENTS RETURNED TO SOURCE.—Any payment, repayment, or civil penalty under this section shall be paid to the entity that afforded benefits under this title to the eligible Senate candidate.

''(i) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of the election.

''SEC. 507. JUDICIAL REVIEW.

''(a) JUDICIAL REVIEW.—Any agency action by the Commission under this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in that court within 30 days after the date of the agency action.

''(b) APPLICATION OF TITLE 5, UNITED STATES CODE.—Chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission under this title.

''(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given the term in section 551(13) of title 5, United States Code.

''SEC. 508. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

''(a) APPEARANCES.—The Commission may appear in and defend against any action instituted under this section and under section 507 by attorneys employed in the office of the Commission or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to chapter 51 and subchapter III of chapter 53 of that title.

''(b) ACTIONS FOR RECOVERY OF AMOUNT OF BENEFITS.—The Commission, by attorneys and counsel described in subsection (a), may bring an action in United States district court to recover any amounts determined under this title to be payable to any entity that afforded a benefit to an eligible Senate candidate under this title.

''(c) ACTION FOR INJUNCTIVE RELIEF.—The Commission, by attorneys and counsel described in subsection (a), may petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

''(d) APPEALS.—The Commission, on behalf of the United States, may appeal from, and may petition the Supreme Court for certiorari to review, any judgment or decree entered with respect to actions in which the Commission under this section.

''SEC. 509. REPORTS TO CONGRESS; REGULATIONS.

''(a) REPORTS.—

''(1) IN GENERAL.—As soon as practicable after each general election, the Commission shall submit a full report to the Senate setting forth—

''(A) the expenditures (shown in such detail as the Commission determines to be appropriate) made by each eligible Senate candidate and the authorized committees of the candidate;

''(B) the amounts certified by the Commission under section 505 as benefits available to each eligible Senate candidate; and

''(C) the amount of repayments, if any, required under section 506 and the reason why each repayment was required.

''(2) PRINTING.—Each report under paragraph (1) shall be printed as a Senate document.

''(b) REGULATIONS.—

''(1) IN GENERAL.—The Commission may issue such regulations, conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as the Commission considers necessary to carry out the functions and duties of the Commission under this title.

''(2) STATEMENT TO SENATE.—Not less than 30 days before issuing a regulation under paragraph (1), the Commission shall submit to the Senate a statement setting forth the proposed regulation and containing a detailed explanation and justification for the regulation.

''SEC. 510. CLOSED CAPTIONING IN TELEVISION BROADCASTS.

''Any television broadcast prepared or distributed by an eligible Senate candidate shall be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the broadcast to be broadcast by way of line 21 of the vertical blanking interval or by way of a comparable successor technology.

''SEC. 511. LIMITATIONS ON PAYMENTS.

''(a) PAYMENTS ON CERTIFICATION.—On receipt of a certification from the Commission under section 505, except as provided in subsection (b), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate.

''(b) INSUFFICIENT FUNDS.—

''(1) WITHHOLDING.—If, at the time of a certification by the Commission under section 505 for payment to an eligible Senate candidate, the Secretary determines that there are not, or may not be, sufficient funds to satisfy the full entitlement of all eligible Senate candidates, the Secretary shall withhold from the amount of the payment such amount as the Secretary determines to be necessary to ensure that each eligible Senate candidate will receive the same pro rata share of the candidate's full entitlement.

''(2) SUBSEQUENT PAYMENT.—Amounts withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient funds to pay all or a portion of the funds withheld from all eligible Senate candidates, but, if only a portion is to be paid, the portion shall be paid in such a manner that each eligible Senate candidate receives an equal pro rata share.

''(3) NOTIFICATION OF ESTIMATED WITHHOLDING.—

''(A) ADVANCE ESTIMATE OF AVAILABLE FUNDS AND PROJECTED COSTS.—Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

''(i) the amount of funds that will be available to make payments under this title in the general election year; and

''(ii) the costs of implementing this title in the general election year.

''(B) NOTIFICATION.—If the Secretary determines under subparagraph (A) that there will be insufficient funds for any calendar year, the Secretary shall notify by registered mail each candidate for the Senate on January 1 of that year (or, if later, the date on which an individual becomes such a candidate) of the amount that the Secretary estimates will be the pro rata withholding from each eligible Senate candidate's payments under this subsection.

''(C) INCREASE IN CONTRIBUTION LIMIT.—The amount of an eligible candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata withholding under subparagraph (B).

''(4) NOTIFICATION OF ACTUAL WITHHOLDING.—

''(A) IN GENERAL.—The Secretary shall notify the Commission and each eligible Senate candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection.

''(B) GREATER AMOUNT OF WITHHOLDING.—If the amount of a withholding exceeds the amount estimated under paragraph (3), an eligible Senate candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of the excess.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1996.

(2) APPLICABILITY TO CONTRIBUTIONS AND EXPENDITURES.—For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1997, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after that date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1997, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1997, to pay for expenditures that were incurred (but unpaid) before that date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF TITLE.—If section 502, 503, or 504 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) or any part of those sections is held to be invalid, this Act and all amendments made by this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN SENATE ELECTIONS.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 324. BAN ON SENATE ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election, or nomination for election, to the office of United States Senator.

''(b) EXECUTIVE OFFICERS AND ADMINISTRATIVE EMPLOYEES.—In the case of an individual who is an executive officer or administrative employee of an employer—

''(1) the individual shall not make a contribution—

''(A) to any political committee established and maintained by any political party for use in an election, or nomination for election, to the office of United States Senator; or

''(B) to any candidate for nomination for election, or election, to the office of United States Senator or the candidate's authorized committees;

if the contribution is made at the direction of, or is otherwise controlled or influenced by, the employer; and

''(2) the individual shall not make any such contribution if the making of the contribution would cause the aggregate amount of contributions made by all executive officers and administrative employees of the employer in any calendar year to exceed—

''(A) $20,000 in the case of such political committees; and

''(B) $5,000 in the case of any such candidate and the candidate's authorized committees.''.

(b) CANDIDATE'S COMMITTEES.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following:

''(9) For the purposes of the limitations under paragraphs (1) and (2), any political committee that is established or financed or maintained or controlled by any candidate or Federal officeholder shall be considered to be an authorized committee of the candidate or officeholder. Nothing in this paragraph shall be construed to permit the establishment, financing, maintenance, or control of any committee that is prohibited by paragraph (3) or (6) of section 302(e).''.

(c) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), during any period beginning after the effective date in which the limitation under section 324 of that Act (as added by subsection (a)) is not in effect, the amendments made by subsections (a) and (b) shall not be in effect.

(d) RULE ENSURING PROHIBITION OF DIRECT CORPORATE AND LABOR ORGANIZATION SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(a)) is held to be invalid by reason of the amendments made by this section, the amendments made by subsections (a) and (b) shall not apply to contributions by any political committee that is directly or indirectly established, administered, or supported by a connected organization that is a bank, corporation, or other organization described in section 316(a) of that Act.

(e) RESTRICTIONS ON CONTRIBUTIONS TO POLITICAL COMMITTEES.—Paragraphs (1)(D) and (2)(D) of section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)), as redesignated by section 312, are amended by striking ''$5,000'' and inserting ''$1,000''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1996.

(2) APPLICABILITY.—In applying the amendments made by this section, there shall not be taken into account—

(A) a contribution made or received before January 1, 1997; or

(B) a contribution made to, or received by, a candidate on or after January 1, 1997, to the extent that the aggregate amount of such contributions made to or received by the candidate is not greater than the excess (if any) of—

(i) the aggregate amount of such contributions made to or received by any opponent of the candidate before January 1, 1997; over

(ii) the aggregate amount of such contributions made to or received by the candidate before January 1, 1997.

SEC. 103. REPORTING REQUIREMENTS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 304 the following:

"SEC. 304A. REPORTING REQUIREMENTS FOR SENATE CANDIDATES.

''(a) MEANINGS OF TERMS.—Any term used in this section that is used in title V shall have the same meaning as when used in title V.

''(b) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—

''(1) DECLARATION OF INTENT.—A candidate for the office of Senator who does not file a certification with the Secretary of the Senate under section 502(c) shall, at the time provided in section 501(c)(2), file with the Secretary of the Senate a declaration as to whether the candidate intends to make expenditures for the general election in excess of the general election expenditure limit.

''(2) REPORTS.—

''(A) INITIAL REPORT.—A candidate for the Senate who qualifies for the ballot for a general election—

''(i) who is not an eligible Senate candidate under section 502; and

''(ii) who receives contributions in an aggregate amount or makes or obligates to make expenditures in an aggregate amount for the general election that exceeds 75 percent of the general election expenditure limit;

shall file a report with the Secretary of the Senate within 2 business days after aggregate contributions have been received or aggregate expenditures have been made or obligated to be made in that amount (or, if later, within 2 business days after the date of qualification for the general election ballot), setting forth the candidate's aggregate amount of contributions received and aggregate amount of expenditures made or obligated to be made for the election as of the date of the report.

''(B) ADDITIONAL REPORTS.—After an initial report is filed under subparagraph (A), the candidate shall file additional reports (until the amount of such contributions or expenditures exceeds 200 percent of the general election expenditure limit) with the Secretary of the Senate within 2 business days after each time additional contributions are received, or expenditures are made or are obligated to be made, that in the aggregate exceed an amount equal to 10 percent of the general election expenditure limit and after the aggregate amount of contributions or expenditures exceeds 100, 133⅓, 166⅔, and 200 percent of the general election expenditure limit.

''(3) NOTIFICATION OF OTHER CANDIDATES.—The Commission—

''(A) shall, within 2 business days after receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate of the filing of the declaration or report; and

''(B) if an opposing candidate has received aggregate contributions, or made or obligated to make aggregate expenditures, in excess of the general election expenditure limit, shall certify, under subsection (e), the eligibility for payment of any amount to which an eligible Senate candidate in the general election is entitled under section 504(a).

''(4) ACTION BY THE COMMISSION ABSENT REPORT.—

''(A) IN GENERAL.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts that would require a report under paragraph (2).

''(B) NOTIFICATION OF ELIGIBLE SENATE CANDIDATES.—The Commission shall—

''(i) within 2 business days after making a determination under subparagraph (A), notify each eligible Senate candidate in the general election of the making of the determination; and

''(ii) when the aggregate amount of contributions or expenditures exceeds the general election expenditure limit, certify under subsection (e) an eligible Senate candidate's eligibility for payment of any amount under section 504(a).

''(c) REPORTS ON PERSONAL FUNDS.—

''(1) FILING.—A candidate for the Senate who, during an election cycle, expends more than the personal funds expenditure limit during the election cycle shall file a report with the Secretary of the Senate within 2 business days after expenditures have been made or loans incurred in excess of the personal funds expenditure limit.

''(2) NOTIFICATION OF ELIGIBLE SENATE CANDIDATES.—Within 2 business days after a report has been filed under paragraph (1), the Commission shall notify each eligible Senate candidate in the general election of the filing of the report.

''(3) ACTION BY THE COMMISSION ABSENT REPORT.—

''(A) IN GENERAL.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the Senate has made expenditures in excess of the amount under paragraph (1).

''(B) NOTIFICATION OF ELIGIBLE SENATE CANDIDATES.—Within 2 business days after making a determination under subparagraph (A),

the Commission shall notify each eligible Senate candidate in the general election of the making of the determination.

''(d) CANDIDATES FOR OTHER OFFICES.—

''(1) FILING.—Each individual—

''(A) who becomes a candidate for the office of United States Senator;

''(B) who, during the election cycle for that office, held any other Federal, State, or local office or was a candidate for any such office; and

''(C) who expended any amount during the election cycle before becoming a candidate for the office of United States Senator that would have been treated as an expenditure if the individual had been such a candidate (including amounts for activities to promote the image or name recognition of the individual);

shall, within 7 days after becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

''(2) APPLICABILITY.—Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election that has been held before the individual becomes a candidate for the office of United States Senator.

''(3) DETERMINATION.—The Commission shall, as soon as practicable, make a determination as to whether any amounts reported under paragraph (1) were made for purposes of influencing the election of the individual to the office of Senator.

''(4) CERTIFICATION.—The Commission shall certify to the individual and the individual's opponents the amounts the Commission determines to be described in paragraph (3), and such amounts shall be treated as expenditures for purposes of this Act.

''(e) BASIS OF CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with this Act or on the basis of the Commission's own investigation or determination.

''(f) SHORTER PERIODS FOR REPORTS AND NOTICES DURING ELECTION WEEK.—Any report, determination, or notice required by reason of an event occurring during the 7-day period ending on the date of the general election shall be made within 24 hours (rather than 2 business days) of the event.

''(g) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall—

''(1) transmit a copy of any report or filing received under this section or under title V as soon as possible (but not later than 4 working hours of the Commission) after receipt of the report or filing;

''(2) make the report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4); and

''(3) preserve the reports and filings in the same manner as the Commission under section 311(a)(5).''.

SEC. 104. DISCLOSURE BY CANDIDATES OTHER THAN ELIGIBLE SENATE CANDIDATES.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) (as amended by section 113) is amended by adding at the end the following:

''(e) DISCLOSURE BY CANDIDATES OTHER THAN ELIGIBLE SENATE CANDIDATES.—A broadcast, cablecast, or other communication that is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such a candidate, shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.''.

SEC. 105. EXCESS CAMPAIGN FUNDS OF SENATE CANDIDATES.

Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Amounts'' and adjusting the margin appropriately; and

(2) by adding at the end the following:

''(b) DISPOSITION OF EXCESS CAMPAIGN FUNDS.—

''(1) Except as provided in paragraph (2), and notwithstanding subsection (a), a candidate for the Senate who has amounts in excess of amounts necessary to defray expenditures for an election cycle, including any fines or penalties relating thereto, shall, not later than 1 year after the date of the general election for the election cycle—

''(A) expend the excess in the manner described in subsection (a); or

''(B) pay the excess to the general fund of the Treasury of the United States.

''(2) APPLICABILITY.—Paragraph (1) shall not apply to any amount—

''(A) that is transferred to a legal and accounting compliance fund under section 503(c); or

''(B) that is transferred for use in the next election cycle, to the extent that the amount transferred does not exceed 20 percent of the sum of the primary election expenditure limit under section 501(d)(1)(A) and the general election expenditure limit for the election cycle from which the amounts are transferred.''.

SEC. 106. CONTRIBUTION LIMIT FOR ELIGIBLE SENATE CANDIDATES.

Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (A), by inserting ''except as provided in subparagraph (B),'' before ''to'';

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

''(B) to an eligible Senate candidate (as defined in section 501) and the authorized political committees of the candidate which, in the aggregate, exceed $2,000, if an opponent of the eligible Senate candidate fails to comply with the expenditure limits contained in this Act and has received contributions in excess of 10 percent of the general election limits contained in this Act or has expended personal funds in excess of 10 percent of the general election limits contained in this Act;''.

Subtitle B—General Provisions

SEC. 111. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking ''(b) The charges'' and inserting the following:

''(b) BROADCAST MEDIA RATES.—

''(1) IN GENERAL.—The charges'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(3) in paragraph (1)(A) (as redesignated by paragraph (2))—

(A) by striking ''forty-five'' and inserting ''30''; and

(B) by striking ''lowest unit charge of the station for the same class and amount of time for the same period'' and inserting ''lowest charge of the station for the same amount of time for the same period on the same date''; and

(4) by adding at the end the following:

''(2) ELIGIBLE SENATE CANDIDATES.—

''(A) IN GENERAL.—In the case of an eligible Senate candidate (as described in section 501 of the Federal Election Campaign Act), the charges for the use of a television broadcasting station during the 30-day period and 60-day period referred to in paragraph (1)(A) shall not exceed 50 percent of the lowest charge described in paragraph (1)(A).

''(B) APPLICABILITY.—Subparagraph (A) shall not apply to broadcasts that are to be paid from amounts received under section 504(a)(2)(B) of the Federal Election Campaign Act of 1971.''.

(b) PREEMPTION; ACCESS.—Section 315 of the Communications Act of 1947 (47 U.S.C. 315) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) PREEMPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to subsection (b)(1).

''(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.''.

(c) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of the Communications Act of 1947 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking ''or repeated'';

(2) by inserting ''or cable system'' after ''broadcasting station''; and

(3) by striking ''his candidacy'' and inserting ''his or her candidacy, under the same terms, conditions, and business practices as apply to the broadcasting station's most favored advertiser''.

SEC. 112. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 608) is amended by adding at the end the following:

''(e) TIME FOR REPORTING CERTAIN EXPENDITURES.—

''(1) EXPENDITURES AGGREGATING $1,000.—A person that makes independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

''(2) EXPENDITURES AGGREGATING $10,000.—

''(A) INITIAL REPORT.—A person that makes independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before an election shall file a report describing the expenditures within 48 hours that amount of independent expenditures has been made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures aggregating an additional $10,000 are made with respect to the same election as that to which the initial report relates.

''(3) PLACE OF FILING; CONTENTS; TRANSMITTAL.—

''(A) PLACE OF FILING; CONTENTS.—A report under this subsection—

''(i) shall be filed with the Secretary of the Senate or the Commission, and the Secretary of State of the candidate's State; and

''(ii) shall contain the information required by subsection (b)(6)(B)(iii), including whether each independent expenditure was made in support of, or in opposition to, a candidate.

''(B) TRANSMITTAL.—

''(i) TO THE COMMISSION.—As soon as possible (but not later than 4 working hours of the Commission) after receipt of a report under this subsection, the Secretary of the Senate shall transmit the report to the Commission.

''(ii) TO CANDIDATES.—Not later than 48 hours after receipt of a report under this subsection, the Commission shall transmit a copy of the report to each candidate seeking nomination for election to, or election to, the office in question.

''(4) OBLIGATION TO MAKE EXPENDITURE.—For purposes of this subsection, an expenditure shall be treated as being made when it is made or obligated to be made.

''(5) ADVANCE NOTICE OF INTENTION TO MAKE INDEPENDENT EXPENDITURES.—

''(A) IN GENERAL.—A person that intends to make independent expenditures totaling $5,000 or more during the 20 days before an election shall file a notice of that intention not later than the 20th day before the election.

''(B) PLACE OF FILING; CONTENTS; TRANSMITTAL.—

''(i) PLACE OF FILING; CONTENTS.—A statement under subparagraph (A)—

''(I) shall be filed with the Secretary of the Senate or the Commission, and the Secretary of State of the candidate's State; and

''(II) shall identify each candidate whom the expenditure will support or oppose.

''(ii) TRANSMITTAL.—

''(I) TO THE COMMISSION.—As soon as possible (but not later than 4 working hours of the Commission) after receipt of a notice of intention under this paragraph, the Commission shall transmit the notice to the Commission.

''(II) TO CANDIDATES.—Not later than 48 hours after the receipt of a notice of intention under this paragraph, the Commission shall transmit a copy of the notice to each candidate identified in the notice.

''(6) DETERMINATIONS BY THE COMMISSION.—

''(A) IN GENERAL.—The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election that in the aggregate exceed the applicable amounts under paragraph (1) or (2).

''(B) NOTIFICATION.—The Commission shall notify each candidate in the election of the making of the determination within 24 hours after making the determination.

''(7) CERTIFICATION OF ELIGIBILITY TO RECEIVE BENEFITS.—At the same time as a candidate is notified under paragraph (3), (5), or (6) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 504(a).

''(8) PUBLIC AVAILABILITY; PRESERVATION.—The Secretary of the Senate shall make any report or notice of intention received under this subsection available for public inspection and copying in the same manner as under section 311(a)(4), and shall preserve the reports and notices in the same manner as under section 311(a)(5).''.

(b) CONFORMING AMENDMENT.—Section 304(c)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)(2)) is amended by striking the undesignated matter after subparagraph (C).

SEC. 113. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) by striking ''Whenever'' and inserting the following:

''(a) DISCLOSURE.—When a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or when'';

(B) by striking ''an expenditure'' and inserting ''a disbursement'';

(C) by striking ''direct''; and

(D) in paragraph (3), by inserting ''and permanent street address'' after ''name'';

(2) in subsection (b), by inserting ''SAME CHARGE AS CHARGE FOR COMPARABLE USE.—'' before ''No''; and

(3) by adding at the end the following:

''(c) REQUIREMENTS FOR PRINTED COMMUNICATIONS.—A printed communication described in subsection (a) shall be—

''(1) of sufficient type size to be clearly readable by the recipient of the communication;

''(2) contained in a printed box set apart from the other contents of the communication; and

''(3) consist of a reasonable degree of color contrast between the background and the printed statement.

''(d) REQUIREMENTS FOR BROADCAST AND CABLECAST COMMUNICATIONS.—

''(1) PAID FOR OR AUTHORIZED BY THE CANDIDATE.—

''(A) IN GENERAL.—A broadcast or cablecast communication described in paragraph (1) or (2) of subsection (a) shall include, in addition to the requirements of those paragraphs, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(B) TELEVISED COMMUNICATIONS.—A broadcast or cablecast communication described in paragraph (1) that is broadcast or cablecast by means of television shall include, in addition to the audio statement under subparagraph (A), a written statement—

''(i) that states: 'I [name of candidate] am a candidate for [the office the candidate is seeking], and I have approved this message';

''(ii) that appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(iii) that is accompanied by a clearly identifiable photographic or similar image of the candidate.

''(2) NOT PAID FOR OR AUTHORIZED BY THE CANDIDATE.—A broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the statement—

'_____ is responsible for the content of this advertisement.';

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if the communication is broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

SEC. 114. DEFINITIONS.

(a) IN GENERAL.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following:

''(19) The term 'general election'—

''(A) means an election that will directly result in the election of a person to a Federal office; and

''(B) includes a primary election that may result in the election of a person to a Federal office.

''(20) The term 'general election period' means, with respect to a candidate, the period beginning on the day after the date of the primary or runoff election for the specific office that the candidate is seeking, whichever is later, and ending on the earlier of—

''(A) the date of the general election; or

''(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

''(21) The term 'immediate family' means—

''(A) a candidate's spouse;

''(B) a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

''(C) the spouse of any person described in subparagraph (B).

''(22) The term 'major party' has the meaning given the term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least 1 other candidate's qualifying for the ballot in the general election, the candidate shall be treated as a candidate of a major party for purposes of title V.

''(23) The term 'primary election' means an election that may result in the selection of a candidate for the ballot in a general election for a Federal office.

''(24) The term 'primary election period' means, with respect to a candidate, the period beginning on the day following the date of the last election for the specific office that the candidate is seeking and ending on the earlier of—

''(A) the date of the first primary election for that office following the last general election for that office; or

''(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

''(25) The term 'runoff election' means an election held after a primary election that is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

''(26) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office that the candidate is seeking and ending on the date of the runoff election for that office.

''(27) The term 'voting age population' means the number of residents of a State who are 18 years of age or older, as certified under section 315(e).

''(28) The term 'election cycle' means—

''(A) in the case of a candidate or the authorized committees of a candidate, the period beginning on the day after the date of the most recent general election for the specific office or seat that the candidate is seeking and ending on the date of the next general election for that office or seat; and

''(B) in the case of all other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next general election.''.

(b) IDENTIFICATION.—Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended by striking ''mailing address'' and inserting ''permanent residence address''.

SEC. 115. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

Section 3210(a)(6)(C) of title 39, United States Code, is amended—

(1) by striking ''if the mass mailing is postmarked fewer than 60 days immediately before the date'' and inserting ''if the mass mailing is postmarked during the calendar year''; and

(2) by inserting ''or reelection'' before the period.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

''(17) INDEPENDENT EXPENDITURE.—

''(A) IN GENERAL.—The term ''independent expenditure'' means an expenditure by a person other than a candidate or candidate's authorized committee—

''(i) that is made for a communication that contains express advocacy; and

''(ii) is made without the participation or cooperation of and without coordination with a candidate.

''(B) EXPRESS ADVOCACY.—The term 'express advocacy' means a communication advocating the election or defeat of a clearly identified candidate and includes any communication that—

''(i)(I) contains a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject';

''(II) recommends a position on an issue and clearly identifies 1 or more candidates as supporting or opposing that position; or

''(III) contains campaign slogans or individual words that in context can have no reasonable meaning other than to recommend the election or defeat of 1 or more clearly identified candidates;

''(ii) clearly identifies 1 or more candidates and is broadcast by a radio broadcast station or a television broadcast station (including a cable system) within 60 calendar days preceding the date of an election (or with respect to a candidate for the office of Vice President or President in a general election, within 90 calendar days preceding the date of the general election); or

''(iii) taken as a whole and with limited reference to external events, such as proximity to an election, expresses unmistakable support for or opposition to 1 or more clearly identified candidates.

''(C) WITHOUT THE PARTICIPATION OR COOPERATION OF AND WITHOUT COORDINATION WITH A CANDIDATE.—The term 'without the participation or cooperation of and without coordination with a candidate', with respect to an expenditure, means an expenditure that is made—

''(i) without any request or suggestion from or any involvement of a candidate or candidate's representative;

''(ii) without the involvement of any person who, during the election cycle in which the expenditure is made, has raised funds on behalf of the candidate, counseled or advised the candidate or the candidate's representative regarding the election (other than to provide legal and accounting services to ensure compliance with this Act), engaged in campaign-related research or polling analysis with respect to the election, or communicated with or received information from the candidate or the candidate's representative about the candidate's plans, resources, expenditures, or needs regarding the election; and

''(iii) without the involvement of any person who received compensation, during the election cycle in which the expenditure is made, from the candidate or candidate's representative and from the person making the independent expenditure.''.

SEC. 202. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY POLITICAL PARTY COMMITTEES.

(a) DEFINITION OF COORDINATED EXPENDITURE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

''(19) COORDINATED EXPENDITURE.—The term 'coordinated expenditure' means an expenditure that is made by a person other than the candidate and that is not an independent expenditure.''.

(b) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY POLITICAL PARTY COMMITTEES.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1) by striking ''and (3)'' and inserting '', (3) and (4)''; and

(2) by adding at the end the following:

''(4) PROHIBITION AGAINST MAKING BOTH COORDINATED EXPENDITURES AND INDEPENDENT EXPENDITURES.—

''(A) IN GENERAL.—A committee of a political party shall not make both a coordinated expenditure and an independent expenditure with respect to the same candidate during a single election cycle.

''(B) CERTIFICATION.—Before making a coordinated expenditure or an independent expenditure with respect to a candidate, a committee of a political party that is subject to this subsection shall file with the Commission a certification, signed by the treasurer, stating whether the committee will make coordinated expenditures or independent expenditures with respect to the candidate.

''(C) TRANSFERS.—A party committee that certifies under this paragraph that the committee will make coordinated expenditures with respect to a candidate shall not, in the same election cycle, make a transfer of funds to, or receive a transfer of funds from, any other party committee that has certified under this paragraph that it will make independent expenditures with respect to the candidate.''.

SEC. 203. TREATMENT OF QUALIFIED NONPROFIT CORPORATIONS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

''(c) EXCEPTION FOR CERTAIN TAX-EXEMPT CORPORATIONS.—

''(1) IN GENERAL.—Notwithstanding the prohibitions of this section, a qualified nonprofit corporation may make an independent expenditure.

''(2) DEFINITION OF QUALIFIED NONPROFIT CORPORATION.—For purposes of this Act, the term 'qualified nonprofit corporation' means a corporation that meets the following requirements:

''(A) TAX-EXEMPT STATUS.—The corporation is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 and is described in section 501(c)(4) of the Code.

''(B) PURPOSES.—The corporation is organized exclusively to promote specific political ideas.

''(C) NO TRADE OR BUSINESS.—The corporation does not engage in any activity that constitutes a trade or business.

''(D) ESTABLISHMENT.—The corporation was not established by—

''(i) a corporation that is carrying on a trade or business;

''(ii) a labor organization; or

''(iii) a business league or other organization described in section 501(c)(6) of the Internal Revenue Code of 1986.

''(E) CONTRIBUTIONS.—The corporation does not accept, directly or indirectly, donations of anything of value from any corporation, labor organization or organization described in subparagraph (D)(iii), and does not serve, directly or indirectly, as a conduit for expenditures by such entities.

''(F) CLAIMS AND INCENTIVES.—The corporation—

''(i) has no shareholder or other person, other than an employee or creditor without an ownership interest, whose affiliation could allow a claim on the assets or earnings of such corporation; and

''(ii) offers no incentives or disincentives for persons to associate or not to associate with the corporation other than the positions of the corporation on political issues.

''(3) STATUS AS POLITICAL COMMITTEE.—If a qualified nonprofit corporation meets the qualifications of section 301(4), the corporation shall be treated as a political committee.

''(4) DISCLOSURE TO DONORS.—All solicitations of donations by the qualified nonprofit corporation shall inform potential donors that donations may be used by the corporation for political purposes, such as supporting or opposing candidates for public office.''.

SEC. 204. EQUAL BROADCAST TIME.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by striking subsection (a) and inserting the following:

''(a) EQUAL OPPORTUNITY TO USE BROADCASTING STATION.—

''(1) IN GENERAL.—A licensee that permits any person who is a legally qualified candidate for public office to use a broadcasting station (other than any use required to be provided under paragraph (2)) shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

''(2) INDEPENDENT EXPENDITURES.—

''(A) INFORMATION TO BE PROVIDED TO LICENSEE BY PERSON RESERVING BROADCAST TIME.—A person that reserves broadcast time the payment for which would constitute an independent expenditure (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) shall—

''(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

''(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates and state whether the message to be broadcast is intended to be made in support of or in opposition to each such candidate; and

''(iii) provide the licensee a copy of the statement described in section 304(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)).

''(B) RESPONSE BY LICENSEE.—A licensee that is informed as described in subparagraph (A) shall—

''(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

''(I) notify the person of the proposed making of the independent expenditure; and

''(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

''(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid using funds derived from a payment made under section 504(a)(2)(B) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b).

''(3) NO CENSORSHIP.—A licensee shall have no power of censorship over the material broadcast under this section.

''(4) NO OBLIGATION.—Except as provided in paragraph (2), no obligation is imposed under this subsection on any licensee to allow the use of its station by any candidate.

''(5) CERTAIN APPEARANCES NOT CONSIDERED USE OF BROADCASTING STATION.—

''(A) IN GENERAL.—An appearance by a legally qualified candidate on a—

''(i) bona fide newscast;

''(ii) bona fide news interview;

''(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

''(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto);

shall not be considered to be use of a broadcasting station within the meaning of this subsection.

''(B) NO RELIEF FROM OTHER OBLIGATIONS.—Nothing in subparagraph (A) relieves a licensee, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

''(6) ENDORSEMENT OF CANDIDATE BY LICENSEE.—

''(A) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

''(i) notice of the date and time of broadcast of the editorial;

''(ii) a taped or printed copy of the editorial; and

''(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

''(B) TIME FOR RESPONSE.—

''(i) 72 HOURS OR MORE BEFORE ELECTION.—In the case of an editorial described in subparagraph (A) that is first broadcast 72 hours or more before the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial.

''(ii) LESS THAN 72 HOURS BEFORE ELECTION.—In the case of an editorial described in subparagraph (A) that is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response.''.

TITLE III—EXPENDITURES

Subtitle A—Personal Funds; Credit

SEC. 301. CONTRIBUTIONS AND LOANS FROM PERSONAL FUNDS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

''(i) LIMITATIONS ON REPAYMENT OF LOANS AND RETURN OF CONTRIBUTIONS FROM PERSONAL FUNDS.—

''(1) REPAYMENT OF LOANS.—If a candidate or a member of the candidate's immediate family made a loan to the candidate or to the candidate's authorized committees during an election cycle, no contribution received after the date of the general election for the election cycle may be used to repay the loan.

''(2) RETURN OF CONTRIBUTIONS.—No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.''.

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) (as amended by section 201(b)), is amended—

(1) by striking ''or'' at the end of clause (ii);

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

(3) by inserting at the end the following:

''(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on a broadcasting station, in a newspaper or magazine, or by a mailing, or relating to other similar types of general public political advertising, if the extension of credit is—

''(I) in an amount greater than $1,000; and

''(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which the goods or services are furnished or the date of a mailing.''.

Subtitle B—Soft Money of Political Parties

SEC. 311. PREPARATION AND DISTRIBUTION BY VOLUNTEERS OF MATERIALS IN CONNECTION WITH STATE AND LOCAL POLITICAL PARTY VOTER REGISTRATION AND GET-OUT-THE-VOTE ACTIVITIES SO AS NOT TO BE CONSIDERED A CONTRIBUTION OR EXPENDITURE.

(a) CONTRIBUTION.—Section 301(8)(B)(xii) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)(xii)) is amended—

(1) by striking ''such committee'' and inserting ''the committee in connection with volunteer activities'';

(2) by striking '': *Provided,* That'' and inserting ''if'';

(3) by redesignating the items designated as items ''(1)'', ''(2)'', and ''(3)'', respectively, as subclauses (I), (II), and (III);

(4) by striking ''and'' at the end of subclause (II) (as redesignated);

(5) by inserting ''and'' at the end of subclause (III) (as redesignated); and

(6) by adding at the end the following:

''(IV) the activities are conducted solely by, and any materials are distributed solely by, volunteers;''.

(b) EXPENDITURE.—Section 301(9)(B)(ix) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)(ix)) is amended—

(1) by striking ''such committee'' and inserting ''the committee in connection with volunteer activities'';

(2) by striking '': *Provided,* That'' and inserting ''if'';

(3) by redesignating the items designated as items ''(1)'', ''(2)'', and ''(3)'', respectively, as subclauses (I), (II), and (III);

(4) by striking ''and'' at the end of subclause (II) (as redesignated);

(5) by inserting ''and'' at the end of subclause (III) (as redesignated); and

(6) by adding at the end the following:

''(IV) any materials in connection with the activities are prepared for distribution (and are distributed) solely by volunteers; and''.

SEC. 312. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) (as amended by section 106) is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following:

''(D) to—

''(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $20,000; or

''(ii) any other political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000; or''.

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

''(C) to—

''(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $15,000; or

''(ii) to any other political committee established and maintained by a State committee of a political party that, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a multicandidate political committee to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $15,000; or''.

(c) OVERALL LIMIT.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by striking paragraph (3) and inserting the following:

''(3) OVERALL LIMIT.—

''(A) ELECTION CYCLE.—No individual shall make contributions during any election cycle (as defined in section 301(28)(B)) that, in the aggregate, exceed $60,000.

''(B) CALENDAR YEAR.—

''(i) IN GENERAL.—No individual shall make contributions during any calendar year—

''(I) to all candidates and their authorized political committees that, in the aggregate, exceed $25,000; or

''(II) to all political committees established and maintained by State committees of a political party that, in the aggregate, exceed $20,000.

''(ii) NONELECTION YEAR.—For purposes of clause (i), a contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which the contribution is made shall be treated as being made during the calendar year in which the election is held.

(d) PRESIDENTIAL CANDIDATE COMMITTEE TRANSFERS.—

(1) AMENDMENT OF FECA.—Section 315(b)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(b)(1)) is amended by striking subparagraph (B) and inserting the following:

''(B) in the case of a campaign for election to that office, an amount equal to the sum of—

''(i) $20,000,000; plus

''(ii) the lesser of—

''(I) 2 cents multiplied by the voting age population of the United States (as certified under subsection (e); or

''(II) the amounts transferred by the candidate and the authorized committees of the candidate to the national committee of the candidate's political party for distribution to State Party Grassroots Funds.''.

(2) AMENDMENT OF INTERNAL REVENUE CODE.—Subparagraph (A) of section 9002(11) of the Internal Revenue Code of 1986 (defining qualified campaign expense) is amended—

(A) by striking ''or'' at the end of clause (ii);

(B) by inserting ''or'' at the end of clause (iii); and

(C) by adding at the end the following:

''(iv) any transfers to the national committee of the candidate's political party for distribution to State Party Grassroots Funds (as defined in section 301(30) of the Federal Election Campaign Act of 1971) to the extent that such transfers do not exceed the amount determined under section 315(b)(1)(B)(ii) of that Act;''.

SEC. 313. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 102(a)) is amended by adding at the end the following:

''SEC. 325. POLITICAL PARTY COMMITTEES.

''(a) LIMITATIONS ON NATIONAL COMMITTEES.—

''(1) IN GENERAL.—A national committee of a political party and the congressional campaign committees of a political party shall not solicit or accept any amount, or solicit or accept a transfer from another political committee, that is not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) EXCLUSIONS.—Paragraph (1) shall not apply to any amount received—

''(A) that—

''(i) is to be transferred to a State committee of a political party and is used solely for an activity described in clause (xi), (xii), (xiii), (xiv), (xv), (xvi), or (xvii) of section 301(9)(B); or

''(ii) is described in section 301(8)(B)(viii); and

''(B) with respect to which a contributor has been notified that the amount will be used solely for the purposes described in subparagraph (A).

''(b) TRANSFERS TO TAX-EXEMPT ORGANIZATIONS.—A national committee or a State committee of a political party shall not transfer any funds to an organization that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 and is described in section 501(c)(3) of the Code.

''(c) ACTIVITIES SUBJECT TO THIS ACT.—

''(1) IN GENERAL.—Any amount solicited, received, expended, or disbursed directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to any of the following activities shall be treated as a contribution subject to the limitations, prohibitions, and reporting requirements of this Act:

''(A)(i) Any get-out-the-vote activity conducted during a calendar year in which an election for the office of President is held.

''(ii) Any other get-out-the-vote activity unless subsection (c)(2) applies to the activity.

''(B) Any generic campaign activity.

''(C) Any activity that identifies or promotes a Federal candidate, regardless of whether—

''(i) a State or local candidate is also identified or promoted; or

''(ii) any portion of the funds disbursed constitutes a contribution or expenditure under this Act.

''(D) Voter registration.

''(E) Development and maintenance of voter files during an even-numbered calendar year.

''(F) Any other activity that—

''(i) significantly affects a Federal election; or

''(ii) is not described in section 301(8)(B)(xvii).

''(2) FUNDRAISING COSTS.—Any amount spent to raise funds that are used, in whole or in part, in connection with an activity described in paragraph (1) shall be treated as an expenditure subject to the limitations, prohibitions, and reporting requirements of this Act.

''(d) GET-OUT-THE-VOTE ACTIVITIES BY STATE, DISTRICT, AND LOCAL COMMITTEES OF A POLITICAL PARTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any get-out-the-vote activity for a State or local candidate, or for a ballot measure, that is conducted by a State, district, or local committee of a political party (including any subordinate committee) shall be treated as an expenditure subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) EXCLUSIONS.—Paragraph (1) shall not apply to any activity that the State committee of a political party certifies to the Commission is an activity that—

''(A) is conducted during a calendar year other than a calendar year in which an election for the office of President is held;

''(B) is exclusively on behalf of (and specifically identifies only) 1 or more State or local candidates or ballot measures; and

''(C) does not include any effort or means used to identify or turn out those identified to be supporters of any Federal candidate (including any activity that is undertaken in coordination with, or on behalf of, a candidate for Federal office).

''(e) STATE PARTY GRASSROOTS FUNDS.—

''(1) IN GENERAL.—A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

''(A) a generic campaign activity;

''(B) the making of a payment described in clause (v), (x), or (xii) of paragraph (8)(B) or clause (iv), (viii), or (ix) of paragraph (9)(B) of section 301;

''(C) subject to the limitations of section 315(d), the making of a payment described in paragraph (8)(B)(xii) or (9)(B)(ix) of section 301 on behalf of a candidate other than a candidate for President or Vice President;

''(D) voter registration; and

''(E) development and maintenance of voter files during an even-numbered calendar year.

''(2) TRANSFERS.—

''(A) IN GENERAL.—Notwithstanding section 315(a)(4) and except as provided in subparagraph (B), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee.

''(B) TRANSFER TO SEPARATE SEGREGATED FUND OF DISTRICT OR LOCAL COMMITTEE.—A transfer may be made from a State Party Grassroots Fund to a district or local committee of the same political party in the same State if the district or local committee—

''(i) has established a separate fund for the purposes described in paragraph (1); and

''(ii) uses the transferred funds solely for those purposes.

''(f) AMOUNTS RECEIVED BY STATE PARTY GRASSROOTS FUND FROM NON-FEDERAL CANDIDATE COMMITTEES.—

''(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a non-Federal candidate committee for expenditures described in subsection (b) that are for the benefit of that candidate shall be treated as meeting the requirements of subsection (b) and section 304(f) if—

''(A) the amount is derived from funds that meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in paragraphs (1)(A) and (2)(A) of section 315(a); and

''(B) the non-Federal candidate committee—

''(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

''(ii) certifies that the requirements were met.

''(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act referred to in paragraph (1)(A)—

''(A) a non-Federal candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee; and

''(B) the committee must be able to demonstrate that its cash on hand contains sufficient funds meeting those requirements as are necessary to cover the transferred funds.

''(3) REPORTING.—Notwithstanding paragraph (1), a State Party Grassroots Fund that receives a transfer described in paragraph (1) from a non-Federal candidate committee—

''(A) shall meet the reporting requirements of this Act; and

''(B) shall submit to the Commission all certifications received with respect to receipt of the transfer from the candidate committee.''.

(b) DEFINITIONS.—

(1) CONTRIBUTION.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(A) by striking ''and'' at the end of clause (xiii);

(B) by striking the period at the end of clause (xiv) and inserting a semicolon; and

(C) by adding at the end the following:

''(xv) any amount contributed to a candidate for other than Federal office;

''(xvi) any amount received or expended to pay the costs of a State or local political convention;

''(xvii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 325(c) (without regard to paragraph (6)(B)) or section 325(d)(1);

''(xviii) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

''(I) overhead, including party meetings;

''(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

''(III) party elections or caucuses;

''(xix) any payment for research pertaining solely to State and local candidates and issues;

''(xx) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

''(xxi) any payment for any other activity that is solely for the purpose of influencing, and that solely affects, an election for non-Federal office and that is not an activity described in section 325(c) (without regard to paragraph (6)(B)) or section 325(d)(1).''.

(2) EXPENDITURE.—Section 301(9)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)) is amended—

(A) by striking ''and'' at the end of clause (ix);

(B) by striking the period at the end of clause (x) and inserting a semicolon; and

(C) by adding at the end the following:

''(xi) any amount contributed to a candidate for other than Federal office;

''(xii) any amount received or expended to pay the costs of a State or local political convention;

''(xiii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 325(c) (without regard to paragraph (6)(B)) or section 325(d)(1);

''(xiv) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

''(I) overhead, including party meetings;

''(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

''(III) conducting party elections or caucuses;

''(xv) any payment for research pertaining solely to State and local candidates and issues;

''(xvi) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

''(xvii) any payment for any other activity that is solely for the purpose of influencing, and that solely affects, an election for non-Federal office and that is not an activity described in section 325(c) (without regard to paragraph (6)(B)) or section 325(d)(1).''.

(3) OTHER TERMS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (as amended by section 114(a)) is amended by adding at the end the following:

''(29) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means a campaign activity that promotes a political party rather than a particular candidate or non-Federal candidate.

''(30) STATE PARTY GRASSROOTS FUND.—The term 'State Party Grassroots Fund' means a separate fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 325(d).

''(31) NON-FEDERAL CANDIDATE.—The term 'non-Federal candidate' means a candidate for State or local office.

''(32) NON-FEDERAL CANDIDATE COMMITTEE.—For purposes of this subsection, the term 'non-Federal candidate committee' means a committee established, financed, maintained, or controlled by a non-Federal candidate.''.

(c) LIMITATION APPLIED AT NATIONAL LEVEL.—Section 315(d)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(3)) is amended—

(1) by striking ''(3) The national'' and inserting the following:

''(3) CANDIDATES FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES.—

''(A) IN GENERAL.—The national'';

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and adjusting the margins as appropriate; and

(3) by adding at the end the following:

''(2) EXPENDITURES BY CONGRESSIONAL CAMPAIGN COMMITTEES.—Notwithstanding paragraph (1), a congressional campaign committee of a political party shall make the expenditures described in paragraph (1) that are authorized to be made by a national or State committee with respect to a candidate in any State unless the congressional campaign committee allocates all or a portion of the expenditures to either or both of those committees.''.

(d) APPLICATION OF LIMITATIONS TO ENTIRE ELECTION CYCLE.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1) by striking ''general''; and

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

(A) by striking ''general''; and

(B) by striking ''which'' and inserting ''that, during an election cycle,''.

SEC. 314. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by section 301) is amended by adding at the end the following:

''(j) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—

''(1) IN GENERAL.—For purposes of this Act, a candidate, an individual holding Federal office, or any agent of the candidate or individual may not solicit funds to, or receive funds on behalf of, any person—

''(A) that are to be expended in connection with any election for Federal office unless the funds are subject to the limitations, prohibitions, and requirements of this Act; or

''(B) that are to be expended in connection with any election for other than Federal office unless the funds are not in excess of amounts permitted with respect to Federal candidates and political committees under paragraphs (1) and (2) of subsection (a), and are not from sources prohibited by those paragraphs with respect to elections to Federal office.

''(2) LIMITATION ON SOLICITATIONS.—

''(A) IN GENERAL.—The aggregate amount that a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

''(B) APPLICABILITY.—A person is described in this subparagraph if the person is a candidate, an individual holding Federal office, an agent of such a candidate or individual, or a national, State, district, or local committee of a political party (including a subordinate committee) or an agent of such a committee.

''(3) APPEARANCE OR PARTICIPATION IN A FUNDRAISING EVENT.—The appearance or participation by a candidate or individual holding Federal office in a fundraising event conducted by a committee of a political party or a non-Federal candidate shall not be treated as a solicitation for purposes of paragraph (1) if the candidate or individual does not solicit or receive, or make disbursements from, any funds resulting from the activity.

''(4) STATE LAW.—Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a non-Federal candidate if the activity is permitted under State law.

''(5) DEFINITION.—For purposes of this subsection, an individual shall be treated as holding Federal office if the individual—

''(A) holds a Federal office; or

''(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.''.

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by subsection (a)) is amended by adding at the end the following:

''(k) TAX-EXEMPT ORGANIZATIONS.—

''(1) IN GENERAL.—If an individual is a candidate for, or holds, Federal office during any period, the individual shall not during that period solicit contributions to, or on behalf of, any organization that is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of the organization include voter registration or get-out-the-vote campaigns.

''(2) DEFINITION.—For purposes of this section, an individual shall be treated as holding Federal office if the individual—

''(A) holds a Federal office; or

''(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.''.

SEC. 315. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 112(a)) is amended by adding at the end the following:

''(f) POLITICAL COMMITTEES.—

''(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, a congressional campaign committee of a political party, and any subordinate committee of a national committee or congressional campaign committee of a political party, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

''(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 325 APPLIES.—A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements, including separate schedules for receipts and disbursements for a State Grassroots Fund.

''(3) TRANSFERS.—A political committee to which section 325 applies shall—

''(A) include in a report under paragraph (1) or (2) the amount of any transfer described in section 325(d)(2); and

''(B) itemize those amounts to the extent required by section 304(b)(3)(A).

''(4) OTHER POLITICAL COMMITTEES.—Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

''(5) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for the person in the same manner as under paragraphs (3)(A), (5), and (6) of subsection (b).

''(6) REPORTING PERIODS.—Reports required to be filed by this subsection shall be filed for the same time periods as reports are required for political committees under subsection (a).''.

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by adding at the end the following:

''(C) REPORTING REQUIREMENT.—The exclusion provided in subparagraph (B)(viii) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.''.

(c) REPORTS BY STATE COMMITTEES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434 (as amended by subsection (a)) is amended by adding at the end the following:

''(g) FILING OF STATE REPORTS.—In lieu of any report required to be filed under this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines that such a report contains substantially the same information as a report required under this Act.''.

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(A) by striking ''and'' at the end of subparagraph (H);

(B) by inserting ''and'' at the end of subparagraph (I); and

(C) by adding at the end the following:

''(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;''.

(2) NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking ''within the calendar year''; and

(B) by striking ''such operating expenditure'' and inserting ''operating expense, and the election to which the operating expense relates''.

Subtitle C—Soft Money of Persons Other Than Political Parties

SEC. 321. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 315(c)) is amended by adding at the end the following:

''(h) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—

''(1) INITIAL STATEMENT.—A person to which section 325 does not apply that makes (or obligates to make) aggregate disbursements totaling in excess of $2,000 for activities described in section 325(c) shall file a statement with the Commission—

''(A) within 48 hours after the disbursements or obligations in excess of $2,000 are made; or

''(B) in the case of disbursements or obligations that are made within 14 days of an election, on or before the 14th day before the election.

''(2) ADDITIONAL STATEMENTS.—An additional statement shall be filed each time additional disbursements aggregating $2,000 are made by a person described in paragraph (1).

''(4) APPLICABILITY.—This subsection does not apply to—

''(A) a candidate or a candidate's authorized committees; or

''(B) an independent expenditure.

''(5) CONTENTS.—A statement under this section shall contain such information about the disbursements as the Commission shall prescribe, including if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party.

''(6) PLACE OF FILING.—A statement under this section shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, and the Secretary of State (or equivalent official) of the candidate's State. The Secretary of the Senate or Clerk of the House of Representatives shall, as soon as possible (but not later than 24 hours after receipt), transmit a copy of the statement to the Commission.

''(7) TRANSMITTAL.—Not later than 48 hours after receipt, the Commission shall transmit a statement filed under this subsection—

''(A) to the candidates or political parties involved in the election in question; or

''(B) if the disbursement is not in support of, or in opposition to, a candidate or political party, to the State committees of each political party in the State in question.

''(8) DETERMINATIONS BY THE COMMISSION.—The Commission may make its own determination that disbursements described in paragraph (1) have been made or are obligated to be made. The Commission shall notify the candidates or political parties described in paragraph (2) not later than 24 hours after its determination.''.

TITLE IV—CONTRIBUTIONS

SEC. 401. PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by section 314(b)) is amended by adding at the end the following:

''(m) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—

''(1) IN GENERAL.—A lobbyist, or a political committee controlled by a lobbyist, shall not make a contribution to—

''(A) a Federal officeholder or candidate for Federal office if, during the preceding 12 months, the lobbyist has made a lobbying contact with the officeholder or candidate; or

''(B) any authorized committee of the President or Vice President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

''(2) CONTRIBUTIONS TO MEMBER OF CONGRESS OR CANDIDATE FOR CONGRESS.—A lobbyist who, or a lobbyist whose political committee, has made a contribution to a member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution, make a lobbying contact with the member or candidate who becomes a member of Congress or with a covered executive branch official.

''(3) DEFINITIONS.—In this subsection the terms 'covered executive branch official', 'lobbying contact', and 'lobbyist' have the meanings given those terms in section 3 of the Federal Lobbying Disclosure Act of 1995 (2 U.S.C. 1602) except that—

''(A) the term 'lobbyist' includes a person required to register under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); and

''(B) for purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

''(i) the member of Congress;

''(ii) any person employed in the office of the member of Congress; or

''(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.''.

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by section 401(a)) is amended by adding at the end the following:

''(n) DEPENDENTS NOT OF VOTING AGE.—

''(1) IN GENERAL.—For purposes of this section, any contribution by an individual who—

''(A) is a dependent of another individual; and

''(B) has not, as of the time of the making of the contribution, attained the legal age for voting in an election to Federal office in the State in which the individual resides;

shall be treated as having been made by the other individual.

''(2) ALLOCATION BETWEEN SPOUSES.—If an individual described in paragraph (1) is the dependent of another individual and the other individual's spouse, a contribution described in paragraph (1) shall be allocated among those individuals in a manner determined by the individuals.''.

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) (as amended by section 102(b)) is amended by adding at the end the following:

''(10) AGGREGATION OF CONTRIBUTIONS FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES.—Notwithstanding paragraph (5)(B), a candidate may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such a committee), if the contribution, when added to the total of contributions previously accepted from all such committees of that political party, would cause the total amount of contributions to exceed a limitation on contributions to a candidate under this section.''.

SEC. 404. CONTRIBUTIONS AND EXPENDITURES USING MONEY SECURED BY PHYSICAL FORCE OR OTHER INTIMIDATION.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (as amended by section 313) is amended by adding at the end the following:

''SEC. 326. USE OF PHYSICAL FORCE OR INTIMIDATION TO OBTAIN A CONTRIBUTION OR EXPENDITURE OR DETER THE FILING OF A COMPLAINT.

''It shall be unlawful for any person to—

''(1) cause another person to make a contribution or expenditure by using physical force, job discrimination, a financial reprisal, a threat of physical force, job discrimination, or financial reprisal, or taking or threatening to take other adverse action;

''(2) make a contribution or expenditure utilizing money or anything of value secured in the manner described in paragraph (1).''or

''(3) use physical force, job discrimination, or financial reprisal, a threat of physical force, job discrimination, or financial reprisal, or take or threaten to take other adverse action, against an employee, union member, or other person—

''(A) to deter or prevent any person from filing a complaint, providing testimony, or otherwise cooperating with enforcement efforts under this Act; or

''(B) to retaliate against any person who has filed a complaint, provided testimony, or otherwise cooperated with enforcement efforts under this Act.''.

SEC. 405. PROHIBITION OF ACCEPTANCE BY A CANDIDATE OF CASH CONTRIBUTIONS FROM ANY ONE PERSON AGGREGATING MORE THAN $100.

Section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441g) is amended by inserting '', and no candidate or authorized committee of a candidate shall accept from any 1 person,'' after ''make''.

TITLE V—AUTHORITIES AND DUTIES OF THE FEDERAL ELECTION COMMISSION

SEC. 501. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended by adding at the end the following:

''(6) FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.—

''(A) COMPUTERS.—The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may issue a regulation under a person required to file a designation, statement, or report under this Act—

''(i) are required to maintain and file the designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

''(ii) may maintain and file the designation, statement, or report in that manner if not required to do so under a regulation under clause (i).

''(B) FACSIMILE MACHINES.—The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall prescribe a regulation that allows a person to file a designation, statement, or report required by this Act through the use of a facsimile machine.

''(C) VERIFICATION.—In a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying a designation, statement, or report. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

''(D) COMPATIBILITY OF SYSTEMS.—The Secretary of the Senate and the Clerk of the House of Representatives shall ensure that any computer or other system that the Secretary or the Clerk may develop and maintain to receive designations, statements, and reports in the forms required or permitted under this paragraph is compatible with any system that the Commission may develop and maintain.''.

SEC. 502. INCREASE IN THRESHOLD FOR REPORTING REQUIREMENTS.

(a) IDENTIFICATION OF CONTRIBUTORS.—Section 302(c)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(c)(3)) is amended by striking ''$200'' and inserting ''$50''.

(b) IDENTIFICATION OF DISBURSEMENTS.—Section 302(c)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(c)(5)) is amended by striking ''$200'' and inserting ''$50''.

SEC. 503. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1)'' before ''The Commission''; and

(2) by adding at the end the following:

''(2) RANDOM AUDITS.—Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process. This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under title VI or to an authorized committee of an eligible Senate candidate or an eligible House candidate subject to audit under section 522(a).''.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)), as redesignated by subsection (a), is amended by striking ''6 months'' and inserting ''12 months''.

SEC. 504. AUTHORITY TO SEEK INJUNCTION.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

''(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

''(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

''(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

''(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

''(iv) the public interest would be best served by the issuance of an injunction;

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

''(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found or in which the violation is occurring, has occurred, or is about to occur.'';

(2) in paragraph (7), by striking ''(5) or (6)'' and inserting ''(5), (6), or (13)''; and

(3) in paragraph (11), by striking ''(6)'' and inserting ''(6) or (13)''.

SEC. 505. PENALTIES.

(a) INCREASED PENALTIES.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B) by striking ''$5,000'' and inserting ''$10,000'';

(2) in paragraph (5)(B) by striking ''the greater of $10,000 or an amount equal to 200 percent'' and inserting ''the greater of $20,000 or 300 percent''; and

(3) in paragraph (6)(C) by striking ''the greater of $10,000 or an amount equal to 200 percent'' and inserting ''the greater of $20,000 or 300 percent''.

(b) EQUITABLE REMEDIES.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period and inserting '', and, if authorized by the agreement, may include equitable remedies or penalties including disgorgement of funds to the United States Treasury, community service requirements, suspension or disbarment of treasurers, or public education requirements.''.

(c) AUTOMATIC PENALTY FOR LATE FILING.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

''(13) PENALTY FOR LATE FILING.—

''(A) IN GENERAL.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the staff director of the Commission for any failure to meet the time requirements for filing under section 304.

''(B) REQUIRED FILING OF LATE REPORT.—The Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

''(C) PROCEDURE FOR ASSESSING PENALTIES AND FILING DEADLINES.—Penalties and filing requirements imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5) or (12).

''(D) APPEALS.—

''(i) IN GENERAL.—A political committee shall have 30 days after the imposition of penalty or filing requirement under this paragraph to file an exception with the Commission.

''(ii) COMMISSION DETERMINATION.—Within 30 days after receiving the exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in the court by the political committee that is the subject of the agency action, if the petition is filed within 30 days of the Commission action for which review is sought.'';

(2) in paragraph (5)(D)—

(A) by inserting after the first sentence the following: ''In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph 6(A).''; and

(B) by inserting before the period in the last sentence ''or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13)''; and

(3) in paragraph (6)(A), by striking ''paragraph (4)(A)'' and inserting ''paragraph (4)(A) or (13)''.

SEC. 506. INDEPENDENT LITIGATING AUTHORITY.

(a) LITIGATING AUTHORITY.—Section 306(f) of Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by striking paragraph (4) and inserting the following:

''(4) INDEPENDENT LITIGATING AUTHORITY.—

''(A) IN GENERAL.—Notwithstanding paragraph (2) or any other provision of law, the Commission is authorized to appear on its own behalf in any action related to the exercise of its statutory duties or powers in any court as a party or amicus curiae, either—

''(i) by attorneys employed in the office of the Commission, or

''(ii) by counsel whom the Commission may appoint, on a temporary basis, as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, and whose compensation the Commission may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title.

''(B) APPEALS.—The authority granted under subparagraph (A) includes the power of the Commission to appeal from, and petition the Supreme Court for certiorari to review, judgments, or decrees entered with respect to actions in which the Commission appears pursuant to the authority provided by this Act.''.

(b) POWER OF COMMISSION TO PETITION THE SUPREME COURT.—Section 307(a)(6) of Federal Election Campaign Act of 1971 (2 U.S.C. 437d(a)(6)) is amended by striking ''or appeal any civil action'' and inserting '', appeal any civil action or petition the Supreme Court for certiorari to review judgments or decrees entered with respect to actions in which the Commission appears''.

SEC. 507. REFERENCE OF SUSPECTED VIOLATION TO THE ATTORNEY GENERAL.

Section 309(a)(5) of Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended by striking subparagraph (C) and inserting the following:

''(C) REFERRAL TO THE ATTORNEY GENERAL.—The Commission may at any time, by an affirmative vote of 4 of its members, refer a possible violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1986 to the Attorney General of the United States, without regard to any limitations set forth in this section.''.

SEC. 508. POWERS OF THE COMMISSION.

(a) INITIATION OF ENFORCEMENT PROCEEDING.—Section 309(a)(2) of Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking ''reason to believe that'' and inserting ''reason to investigate whether''.

(b) SERVICE OF PROCESS.—Section 306(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by inserting at the end the following:

''(5) SERVICE OF PROCESS.—In any matter under this Act or under chapter 95 or chapter 96 of the Internal Revenue Code of 1986, the Commission may at its discretion, without court order and with or without reimbursement, require the United States Marshal Service to serve process on behalf of the Commission, including serving a summons, subpoena, or complaint, upon any person.''.

(c) VENUE FOR VIOLATIONS ADJUDICATED IN COURT.—Section 309(a)(6)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(6)(A)) is amended by striking ''for the district in which the person against whom

such action is brought is found, resides, or transacts business'' and inserting ''in which the defendant resides, transacts business, or is found or in which the violation occurred''.

(d) FILING OF REPORTS WITH COMMISSION INSTEAD OF THE SECRETARY OF THE SENATE.—

(1) SECTION 302.—Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended—

(A) by striking ''(g)(1)'' and all that follows through ''(3) All'' and inserting ''(g) FILING.—'';

(B) by striking paragraph (4); and

(C) by striking '', except designations, statements, and reports filed in accordance with paragraph (1),''.

(2) SECTION 304.—Section 304 of Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(A) in the first sentence of subsection (a)(6), by striking ''the Secretary, or the Commission,'' and inserting ''the Commission''; and

(B) in the third sentence of subsection (c)(2), by striking ''the Secretary, or''.

(3) SECTION 311.—Section 311(a)(4) of Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)(4)) is amended by striking ''Secretary, or the''.

(e) AUTHORIZATION TO ACCEPT GIFTS.—Section 306(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by adding at the end the following:

''(6) AUTHORIZATION TO ACCEPT GIFTS.—

''(A) IN GENERAL.—To carry out the purposes of this Act, the Commission may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, if the acceptance and use of the gifts, devises, or bequests does not create a conflict of interest.

''(B) DEPOSIT OF GIFTS.—Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Commission.

''(C) USE OF GIFTS.—Property accepted pursuant to this section, and the proceeds from the property, shall be used as closely as practicable in accordance with the terms of the gifts, devises, or bequests.''.

TITLE VI—MISCELLANEOUS

SEC. 601. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) LIMITATIONS.—A political committee that supports or has supported more than 1 candidate shall not be designated as an authorized committee, except that—

''(A) a candidate for the office of President nominated by a political party may designate the national committee of the political party as the candidate's principal campaign committee if the national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

''(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.''; and

(2) by adding at the end the following:

''(6) PROHIBITION OF LEADERSHIP COMMITTEES.—

''(A) IN GENERAL.—

''(i) PROHIBITION.—A candidate or an individual holding Federal office shall not establish, finance, maintain, or control any political committee or non-Federal political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3).

''(ii) CANDIDATE FOR MORE THAN 1 OFFICE.—A candidate for more than 1 Federal office may designate a separate principal campaign committee for the campaign for election to each Federal office.

''(iii) CANDIDATES FOR STATE OR LOCAL OFFICE.—This paragraph does not preclude a Federal officeholder who is a candidate for State or local office from establishing, financing, maintaining, or controlling a political committee for election of the individual to the State or local office.

''(B) TRANSITION.—

''(i) CONTINUATION FOR 12 MONTHS.—For a period of 12 months after the effective date of this paragraph, any political committee established before that date but that is prohibited under subparagraph (A) may continue to make contributions.

''(ii) DISBURSEMENT AT THE END OF 12 MONTHS.—At the end of the 12-month period, the political committee shall disburse all funds by 1 or more of the following means:

''(I) Making contributions to a person described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of the Code.

''(II) Making a contribution to the Treasury of the United States.

''(III) Contributing to the national, State, or local committee of a political party.

''(IV) Making a contribution of not to exceed $1,000 each to 1 or more candidates or non-Federal candidates.''.

SEC. 602. TELEPHONE VOTING BY PERSONS WITH DISABILITIES.

(a) STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.—

(1) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(2) CONSULTATION.—The Federal Election Commission shall conduct the study described in paragraph (1) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(3) CRITERIA.—The system or systems developed pursuant to paragraph (1) shall—

(A) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(B) propose procedures to identify persons who are so disabled; and

(C) describe procedures and equipment that may be used to ensure that—

(i) only persons who are entitled to use the system are permitted to use it;

(ii) the votes of persons who use the system are recorded accurately and remain secret;

(iii) the system minimizes the possibility of vote fraud; and

(iv) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(4) REQUESTS FOR PROPOSALS.—In developing a system described in paragraph (1), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(5) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(6) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the effective date of this Act.

SEC. 603. CERTAIN TAX-EXEMPT ORGANIZATIONS NOT SUBJECT TO CORPORATE LIMITS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

''(c) PROHIBITIONS NOT TO APPLY TO INDEPENDENT EXPENDITURES OF CERTAIN TAX-EXEMPT ORGANIZATIONS.—

''(1) IN GENERAL.—Nothing in this section shall preclude a qualified nonprofit corporation from making an independent expenditure.

''(2) DEFINITION OF QUALIFIED NONPROFIT CORPORATION.—In this subsection, the term 'qualified nonprofit corporation' means a corporation described in section 501(c)(4) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Code and that meets the following requirements:

''(A) PURPOSE.—The only express purpose of the corporation is the promotion of political ideas.

''(B) NO TRADE OR BUSINESS.—The corporation cannot and does not engage in any activities that constitute a trade or business.

''(C) GROSS RECEIPTS.—The gross receipts of the corporation for the calendar year have not (and will not) exceed $100,000, and the net value of the total assets at any time during the calendar year do not exceed $250,000.

''(D) ESTABLISHMENT.—The corporation—

''(i) was not established by—

''(I) a person described in section 501(c)(6) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Code;

''(II) a corporation engaged in carrying out a trade or business; or

''(III) a labor organization; and

''(ii) cannot and does not directly or indirectly accept donations of anything of value from any such person, corporation, or labor organization.

''(E) ASSETS AND EARNINGS.—The corporation—

''(i) has no shareholder or other person affiliated with it that could make a claim on its assets or earnings; and

''(ii) offers no incentives or disincentives for associating or not associating with it other than on the basis of its position on any political issue.

''(3) QUALIFIED NONPROFIT CORPORATION TREATED AS POLITICAL COMMITTEE.—If a major purpose of a qualified nonprofit corporation is the making of independent expenditures, and the requirements of section 301(4) are met with respect to the corporation, the corporation shall be treated as a political committee.

''(4) NOTICE REQUIREMENT.—All solicitations by a qualified nonprofit corporation shall include a notice informing contributors that donations may be used by the corporation to make independent expenditures.

''(5) REPORTS.—A qualified nonprofit corporation shall file reports as required by subsections (d) and (e) of section 304.

SEC. 604. AIDING AND ABETTING VIOLATIONS OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Title III of the Federal Election Campaign Act of 1971 (as amended by section 404) is amended by adding at the end the following:

''SEC. 327. AIDING AND ABETTING VIOLATIONS.

''With reference to any provision of this Act that places a requirement or prohibition on any person acting in a particular capacity, any person who knowingly aids or abets the person in that capacity in violating that provision may be proceeded against as a principal in the violation.''.

SEC. 605. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 505) is amended by adding at the end the following:

''SEC. 328. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT.

''(a) CANDIDATES.—A candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that directly or indirectly refers to an opponent or the opponents of the candidate in an election, with or without identifying any opponent in particular, shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by not later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

''(b) PERSONS OTHER THAN CANDIDATES.—

''(1) IN GENERAL.—A person other than a candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication described in paragraph (2) shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by not later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

''(2) ADVOCACY OR REFERENCE TO OPPONENT.—A communication is described in this paragraph if it is a communication to the general public that—

''(A) advocates the election of a particular candidate in an election; and

''(B) directly or indirectly refers to an opponent or the opponents of the candidate in the election, with or without identifying any opponent in particular.''.

SEC. 606. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) A Member of Congress may not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that seat or for election to any other Federal office.''.

SEC. 607. PARTICIPATION BY FOREIGN NATIONALS IN POLITICAL ACTIVITIES.

(a) PROHIBITION.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting ''PARTICIPATION BY FOREIGN NATIONALS IN POLITICAL ACTIVITIES'';

(2) by striking subsection (a) and inserting the following:

''(a) PROHIBITED CONTRIBUTIONS AND EXPENDITURES.—

''(1) It shall be unlawful for a foreign national directly or through any other person to make any contribution or expenditure of money or other thing of value, or to promise expressly or impliedly to make any contribution or expenditure, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or

''(2) for any person to solicit, receive, or accept a contribution from a foreign national.'';

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

(4) by inserting after subsection (a) the following:

''(b) PROHIBITED ACTIVITIES.—It shall be unlawful for a foreign national or an individual lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20), to direct, dictate, control, or directly or indirectly participate in the decisionmaking process of any other person, (as defined in 301(11)), with regard to the person's Federal or non-Federal election-related activities, such as a decision concerning the making of a contribution or expenditure in connection with an election for any Federal office or a decision concerning the administration of a political committee.''.

(b) AFFIRMATION OF ELIGIBILITY TO MAKE CONTRIBUTION.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) (as amended by subsection (a)) is amended by adding at the end the following:

''(d) AFFIRMATION OF ELIGIBILITY TO MAKE CONTRIBUTION.—A candidate or authorized committee of a candidate shall not accept a contribution in excess of $500 unless the contribution is accompanied by a statement, signed by the person making the contribution, affirming that the person is not a person prohibited by this section from making the contribution.''.

SEC. 608. CERTIFICATION OF COMPLIANCE WITH FOREIGN CONTRIBUTION AND SOLICITATION LIMITATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

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

(2) by inserting after subsection (b) the following:

''(c) CERTIFICATION OF COMPLIANCE WITH FOREIGN CONTRIBUTION AND SOLICITATION LIMITATIONS.—Each report required under this section shall include a certification under penalty of perjury that the political committee has not knowingly solicited or accepted contributions prohibited by section 319.''.

TITLE VII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 701. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

SEC. 702. BUDGET NEUTRALITY.

(a) DELAYED EFFECTIVENESS.—This Act (other than this section) and the amendments made by this Act shall not be effective until the Director of the Office of Management and Budget certifies that the estimated costs under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) have been offset by the enactment of legislation effectuating this Act.

(b) FUNDING.—Legislation effectuating this Act shall not provide for general revenue increases, reduce expenditures for any existing Federal program, or increase the Federal budget deficit.

SEC. 703. SEVERABILITY.

Except as provided in section 101(c), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance is held invalid, the validity of any other provision of this Act, or the application of the provision to other persons and circumstances shall not be affected thereby.

SEC. 704. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if the Court has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 705. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 270 days after the effective date of this Act.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal Jan. 9, 1997]

GOP TO REBUKE COMPANIES FOR BIPARTISAN DONATIONS

By Helene Cooper

WASHINGTON—Republican leaders are adopting a tough post-election strategy: ''Don't get mad, get even.'' And the foe this time isn't the Democrats or organized labor. It's Corporate America.

Annoyed that big business has been hedging its bets by giving lots of money to the Democrats as well as to the Republicans, the GOP says the Business Roundtable, a group of 200 chief executives from the nation's biggest companies, is about to receive an ultimatum: Stop donating so much to the Democrats and become more involved in partisan politics, or be denied access to Republicans in Congress.

GOP House leaders are expected to deliver the message tonight at a dinner meeting with some 20 chief executives of Business Roundtable companies. Scheduled to attend are Speaker Newt Gingrich, Majority Leader Dick Armey, Rep. Tom DeLay of Texas and Rep. John Boehner of Ohio, among others. Corporate bigwigs expected at the meeting include Don Fites, chief executive officer of Caterpillar Inc. who is chairman of the Business Roundtable, and John Snow, chief executive of CSX Corp.

Republican Party Chairman Haley Barbour, who is spearheading the drive, accuses the business group of ''sitting on its hands'' during the past election campaign; he calls America's big CEOs ineffectual in the battle against Democrats and organized labor. ''If their view is going to be neutral when the left tries to undo their agenda,'' Mr. Barbour says in an interview, ''they need to paint up a big billboard that says, 'We don't fight.'''

Companies that want to have it both ways, vows one top GOP strategist, no longer will be involved in Republican decision-making ''or invited to our cocktail parties.''

The GOP strategy is a high-risk one. While Business Roundtable companies gave more than $11.04 million to the Democrats during the 1996 election cycle, as of figures from Dec. 2 they gave more than double that amount—$25.76 million—to Republicans, according to the Center for Responsive Politics, a Washington-based public-interest group that monitors campaign spending.

Republican leaders insist they aren't selling access. But their strategy comes at a time when the GOP is gearing up to investigate Democratic fund raising and has criticized the Clinton administration for cozying up to wealthy Asians and Asian-Americans who have donated heavily to the Democratic Party.

But Mr. Barbour isn't worried about alienating the GOP's longtime corporate backers. ''The best way to be friends is to be upfront with them.'' he says. Roundtable companies, he adds, ''should give a bigger percentage to the Republicans'' than they now are giving.

Mr. Barbour has been sounding the anti-Business Roundtable drumbeat with increasing ferocity, calling the group inefficient and

incompetent in numerous interviews. And Business Roundtable members say he has suddenly become unavailable when they call to talk about the problem.

''I've been unable to connect with Haley,'' Caterpillar's Mr. Fites said in a letter to Roundtable members two weeks ago. ''When I do reach him, I want to explain'' that the Business Roundtable, as a group, doesn't give money to political candidates, Mr. Fites said.

But Business Roundtable companies do, and therein lies the problem for Republicans, who have long thought of Corporate America as their own private money machine. Lately though, big companies have been hedging their bets more than before, and giving substantial money to the Democrats as well. With a Democratic administration, that is expected to continue.

Telecommunication giants AT&T Corp., MCI Communications Corp. and Sprint Corp., along with their political-action groups, for example, rewarded the Democrats in Congress and the Clinton administration for being sympathetic to their cause during the telecommunication-legislation fight. They spread out their huge contributions almost equally, giving $1.74 million to the Democrats and $1.98 million to Republicans. Eastman Kodak Co., which is counting on the Clinton administration to push its trade complaint against Fuji Photo film Co. of Japan, gave the Democrats $40,711 in the 1996 cycle, and $39,000 to the Republicans.

Adding to the GOP's corporate-money complaints was the huge, albeit losing, $35 million campaign by organized labor to elect a Democratic Congress. When GOP strategists tried to counter the attack, forming a group called the Coalition, the business-led group raised just $5 million. In addition, the Business Roundtable declined to join. ''We do not solicit or spend money on behalf of candidates for political office,'' the group's spokeswoman, Johanna Schneider, said.

''We've got the labor unions giving 99% to Democrats, and then the Business Roundtable turns around and says they're neutral?'' says one top GOP strategist. ''If they're neutral, then they should pack up their belongings and move out of town. Washington is a partisan town.''

Republicans say they are drawing up a list of corporations that will be warned to shape up or ship out of the GOP decisionmaking circle. Those in the GOP doghouse include Anheuser-Busch Cos., which isn't a member of the Business Roundtable, but which, along with its PAC, gave $442,057 to the Democrats while giving $395,700 to the Republicans; and UAL Corp.'s United Airlines, which, along with its PAC, gave $265,007 to Democrats and $148,145 to Republicans.

While clearly concerned, corporate CEOs are also annoyed. ''Quite frankly, I'm puzzled by this entire situation,'' the Business Roundtable's Mr. Fites says in his letter to fellow top dogs. ''It is counterproductive to the large number of mutual goals that the roundtable shares with the Republican congressional leadership. I'm also concerned that these unfounded attacks could drive a wedge between roundtable members and congressional Republicans that will not serve either side well.''

* * * * *

[From Roll Call, Jan. 20, 1997]

GOP PRESSURES BUSINESS GROUP TO DUMP THEIR DEM LOBBYISTS

(By Amy Keller)

Republican leaders are calling it ''behavior modification.'' One source described the plan as ''shooting elephants.''

Either way, the Congressional GOP is turning up the heat on one of its key allies: the Business Roundtable.

Still angry that big business failed to adequately bankroll their campaigns and counter the AFL–CIO's onslaught of attack ads last fall, the Republicans want the BRT to purge Democrats from its staff of nine directors.

''You have to fix the problem. You have to fix the Business Roundtable,'' one Republican source said, explaining that the GOP leadership is urging the prestigious organization of corporate bigwigs to purge its staff.

The lawmakers are also urging the CEOs of some 200 corporations that comprise the BRT to dump their Democratic lobbyists, hire Republicans, and significantly increase the percentage of PAC contributions that go to GOP candidates.

Outgoing Republican National Committee Chairman Haley Barbour has been scolding corporate America for weeks for ''not [lifting] a finger in that battle'' against labor and other liberal groups, and on Jan. 9, Republican lawmakers hosted a dinner meeting with two dozen BRT Members to begin the ''process of behavior modification,'' sources told Roll Call.

The CEO summit was run by top GOP leaders, including Senate Majority Leader Trent Lott (Miss), Republic Conference Chairman John Boehner (Ohio), and others. The BRT selected 24 CEOs—''friends of the Republican side,'' like Caterpillar Inc. CEO Donald Fites and BRT chairman and Allied Signal Inc. CEO Lawrence Bossidy—to attend the closed-door meeting.

One top GOP leadership aid described the CEO summit as a ''good conversation,'' and said both sides walked out ''with a better understanding'' and a ''commitment'' to work together.

But other Republican sources say the business group remains under intense scrutiny. One sore spot, sources said, is BRT president Sam Maury, whom Republicans are attacking as a Democratic operative.

As one senior GOP staffer put it: ''We don't feel Sam Maury fits our definition of'' someone who would ''work well on the Republican team.''

Maury is a lawyer and former US Steel executive who joined the BRT in 1982, becoming its number-two man the following year and moving up to executive director of the entire organization in 1993.

Maury did not return calls seeking comment, and a spokeswoman for the BRT also declined to comment on the matter.

But Maury's not the only one who should be sent packing, Republicans say.

It's the view of GOP House and Senate leaders that the CEOs of America's big companies have delegated too much decisionmaking authority to Washington operatives with Democratic loyalties. According to the GOP leadership, corporations that want to maintain their ties with GOP leaders, and be players in policy debates, need to hire Republican lobbyists. One aide said the leaders are encouraging businesses to call them if they need help in this move—and that they'll be happy to make hiring ''suggestions.''

It's their choice if they want to be part of our team,'' he added.

Other incidents have also soured the GOP's relationship with the BRT, Republicans say. For example, lawmakers are still sore over the way the BRT handled an ad campaign promoting the GOP budget in 1995.

The BRT's $10 million ad campaign, which funded the commercials on MTV and other networks to build public support for the budget reconciliation bill, was viewed by Republicans as ''tepid'' at best, and GOP sources said they have reason to believe that Maury was coordinating the campaign with the White House.

Johanna Schneider, spokeswoman for the BRT, defended her organization's reputation.

The BRT was founded in 1972 by CEOs who were ''committed to improving public policy,'' and that's the role of the BRT, not funding campaigns, she told Roll Call.

The BRT ''does not have a PAC,'' she said, and therefore does not contribute to campaigns. And, she said, individual companies that have PACs make those decisions on an individual basis.

''I think we've been successful in adding to the public dialogue,'' said Schneider. But Schneider insists that the BRT doesn't, and won't have anything to do with funding campaigns.

So why are they being targeted?

The behemoth corporations are, in some ways, easier to go after. As one GOP supporter pointed out: ''It's much easier to go out and shoot elephants than to shoot ants.''

If the Republicans can get the BRT to change its ways the payoff could be big. Just as Willie Sutton robbed banks because ''that's where the money is,'' the GOP Congressional leaders realize that BRT members could handily boost Republican election efforts if the BRT would agree to fund issue-advocacy campaigns in future elections.

And while no one expects to see 100 percent, or even 90 percent, of corporate PAC money go exclusively to Republicans—60 or 70 percent would be nice, they say.

While some in the business community say they are angered by the GOP's tactics, others are downplaying the tongue-lashing.

Said one corporate source: ''They wanted businesses to stop and review what they did in light of what labor did * * *. Just a reminder that things have changed. A reminder to take a look. . . take a good look at what you did. Look at it collectively, and look at what other people on the other side of the issues did.''

Steve Stockmeyer, spokesman for the National Association of Business PAC, wasn't at the recent meeting of CEOs and Congressional leaders, but he told Roll Call that he has sympathies on both sides.

''The Republican leadership is wise to seek out allies and ask them to be more consistent allies,'' said Stockmeyer, though he did say that the GOP approach has been rather ''hamhanded.''

''Republicans haven't had 40 years to learn how to be subtle,'' Stockmeyer said. He also noted that it would be native for Republicans to expect the business community to consistently support Republicans, though he admitted businesses should do more.

''It will never be monolithic to the degree that labor was * * *. Business is too pragmatic,'' he observed.

As for the push to hire Republican lobbyists, Wright Andrews, the former president of the American League of Lobbyists, told Roll Call that he believes it is ''wrong, wrong, wrong for either Democrats or Republicans to say, ''We only want to work with our former staffers.''''

''It's not their job to decide,'' he said.

As Republicans strive to become a permanent majority on Capitol Hill, many say they expect an influx of GOP lobbyists to be a natural progression. They simply hope that the increased pressure will ''speed up the process'' of that turnover, one source said.

Still, another source with solid GOP connections expressed reservations about just how far Republican lawmakers can push their argument.

''You don't start a game of this nature if you don't have a game plan that takes you to the end of the game,'' he said, remarking that GOP leaders must remember that in the end, they need corporate America as much as it needs them.

Mr. LEVIN. Mr. President, I could not agree more with something Senator DASCHLE said earlier today, when

he urged us to enact campaign finance reform within the first 100 days of this Congress. The public is looking at us with greater scrutiny in this area than they have ever looked before. We have been down this road before, and I have walked down this road with colleagues, often on a bipartisan basis.

The likelihood is we cannot get anything done in this area unless we act on a bipartisan basis. But act we must. That is what the public is telling us, and I believe the mood they are in will hold us accountable if we fail that charge.

I thank the Chair and yield the floor.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. DODD, Mr. REID, Mr. DORGAN, Mrs. MURRAY, Mr. FORD, Mr. ROCKEFELLER, Mr. INOUYE, Mr. KERRY, Mr. LEVIN, Mr. CLELAND, Mr. JOHNSON, Mr. BREAUX, Mr. TORRICELLI, Mr. DURBIN, Mr. GLENN, Mrs. BOXER, Mr. WELLSTONE, and Mr. BRYAN):

S. 12. A bill to improve education for the 21st century; to the Committee on Finance.

EDUCATION FOR THE 21ST CENTURY ACT

Mr. KENNEDY. Mr. President, I give my strong support to the ''Education for the 21st Century Act'' introduced today by Senator DASCHLE on one of our principle democratic leadership initiatives.

Education must continue to be a top priority in this Congress. We need to do more to make college accessible and affordable for all students, to modernize school classrooms, to help communities build new school facilities and repair old ones, and to help all children learn to read so that they can read to learn.

It is not enough to maintain current spending levels for education. Modest increases are essential to meet rising enrollments and inflation.

Too often, college is priced out of reach for many families. From 1980 to 1990, the cost of college rose by 126 percent, while family income increased by only 73 percent. To meet that rising cost, students are going deeper and deeper into debt. In the 1990s, students have borrowed more in student loans than in the three preceding decades combined.

In 1996 alone, students borrowed $30 billion—a 65-percent increase since 1993. Since 1988, borrowing in the Federal student loan program has increased by more than 100 percent, while starting salaries for college graduates failed to increase at all. Eighty percent of young adults with student loans make under $20,000 in their first year of repayment, barely enough to support the average repayment.

Communities are struggling to repair decrepit facilities, let alone build modern classrooms. Fourteen million children in a third of the Nation's schools are learning in sub-standard classrooms. Half the schools have unsatisfactory conditions. Forty-six percent of schools report insufficient electrical wiring for computers and communications equipment. The repair bill alone is estimated at $112 billion.

And while all this is happening, enrollments are at an all-time high of 52 million students, and thus are continuing to rise.

Forty percent of all children are now reading below their basic grade level. Many parents do not read to their children and with their children, even though we know that when parent involvement is high, student reading scores are also high.

Technology is a powerful tool for improving schools and encouraging economic growth. Computers enable teachers to spend more time with students and teach more effective lessons. By the year 2000, 60 percent of all jobs in the Nation will require skills in computer and network use. According to a recent GAO study, one in every four schools does not have sufficient computers to meet its needs. Only 9 percent of classrooms are connected to the Internet.

Clearly, we are not prepared to meet the challenges of the next century. We have to do better, and the Education for the 21st Century Act will help us to meet the pressing needs of communities, schools, and families.

The Act includes four separate titles: The Higher Education Affordability Act, which includes President Clinton's $1,500 Hope Tuition Tax Credit, the $10,000 tuition tax deduction, and the restoration of the tax deduction for student loan interest; The Educational Facilities Improvement Act; The America Reads Challenge Act, which includes The Parents as First Teachers Act and The Challenging America's Young Readers Act; and The Investing in Technology in the Classroom Act.

The Hope Tax Credit will make at least 2 years of community college affordable for every student. The bill provides a $1,500 a year refundable tax credit for net tuition payments during the first 2 years of college after high school for full-time students. Part-time students may receive $750 per year. The tax benefit is phased out for single persons between $50,000 and $70,000 in adjusted gross income, and phased out for couples between $80,000 and $100,000. Only students who have a cumulative ''B'' average from high school, or its equivalent, qualify for the credit. Pell grants and the tax credit are additive, up to the value of the net tuition paid.

The $10,000 tax deduction will be available to all families with incomes below $100,000. The bill provides an above-the-line deduction of up to $10,000 per taxpayer per year for net tuition expenses. The deduction is available for all college and graduate schools, and the income limits are the same as those provided under the Hope Tax Credit.

The bill also restores the deduction for interest on student loans that was available before the Tax Reform Act of 1986. Unlike the previous deduction, this bill provides an above-the-line deduction. The income limits are the same as those provided under the Hope Tax Credit.

The Educational Facilities Improvement Act instructs the Federal Government to pay up to 50 percent of the interest costs on State and local bonds to finance school repair, renovation, modernization and construction. Twenty percent of the funds will go directly from the Secretary of Education to the 100 poorest school districts under a formula based on the number of poor children. The remainder of the funds will be awarded to States to provide assistance to State or local bond authorities.

The America Reads Challenge Act includes two components: The Parents as First Teachers Act and the Challenge America's Young Readers Act. The Parents as First Teachers Act—recognizing that parents are the best first teachers—will support national and regional parent networks that disseminate information on helping parents help their children to read. It will also fund programs to expand successful programs and activities that help parents increase the reading skills of their children.

The Challenging America's Young Readers Act will help State and local organizations help children learn to read by the third grade. Programs funded by this act will provide 30,000 reading specialists and volunteer coordinators to run tutoring assistance programs outside regular school hours to more than 3 million children.

My hope is that these proposals will receive the bipartisan support they deserve, so they can be in place for the beginning of the next academic year this fall. Improving education or opportunities for education is clearly one of our highest national priorities. Few things which this Congress does will matter more to the country's future. Investing in education is investing in a stronger America here at home and around the world, and I look forward to working with my colleagues on both sides of the aisle to enact these important measures.

Mr. BREAUX. Mr. President, I would like to make a few remarks about S. 12, the Education for the 21st Century Act, and our efforts to improve elementary and secondary educational opportunities for our Nation's children, as well as make higher education more accessible for adults.

Quality education is necessary not only for the future of our children and our families, but for the future of our Nation. A better educated workforce is essential to compete in the global economy and to maintain a strong democracy. Every Member of this body knows that a high school diploma is worth far less in today's marketplace than a generation ago. According to the U.S. Bureau of Labor Statistics, 60 percent of all jobs created between 1992 and 2005 will require education beyond

high school. Modern society has little room for those who cannot read, write, and compute effectively; solve problems; and continually learn new technologies and skills.

The Education for the 21st Century Act includes a number of important initiatives that, if enacted, will make educational opportunities more accessible for Americans: The HOPE Scholarship, the tax deduction for higher education expenses, the student loan interest deduction, and the technology literacy and America Reads initiatives. Another area of concern that S. 12 addresses is the declining physical condition of our Nation's schools.

According to a June 1996 report by the U.S. General Accounting Office, nationwide, about a third of public elementary and secondary schools have at least one building needing extensive repair, and about 60 percent need extensive repair, overhaul, or replacement of at least one major building feature. Nationwide, about 58 percent of schools have at least one unsatisfactory environmental condition (i.e., lighting, heating, ventilation, indoor air quality, acoustics for noise control, and physical security). Nationwide, 21 percent of schools need to spend over the national average ($1.7 million) to bring their facilities into ''good condition.''

Although a national problem, it is mirrored in every State. In my own State of Louisiana, about 38 percent of public elementary and secondary schools have at least one building needing extensive repair. Fifty-six percent of Louisiana schools have at least one unsatisfactory environmental condition. Twenty-three percent of Louisiana schools need to spend over the national average to bring their facilities into ''good condition.'' Sixty-five percent of Louisiana schools lack telephone lines for computer modems.

It is important that we help schools, libraries, and local governments bring advanced telecommunications to millions who otherwise cannot participate in the new information age. Computer services like the Internet give young people in the most poor and remote communities access to the same information available in the best libraries and institutions in the country and the world. Unfortunately, many States and local governments have had to cut back on investment in education because of budget problems and limits on debt capacity.

Some have argued that the proper role of Government is to try to solve everyone's problems from cradle to grave—to create programs to protect citizens from everything, even themselves, because, as they say, ''Government knows best.'' Others argue that Government has no role at all in helping people, other than getting out of the way and offer only a survival of the fittest solution. My colleagues let me suggest that the better role for Government to play is one that equips the American people with the means to solve their own problems.

Some want to abandon the public schools, not make them better—as if removing the most motivated students and parents will somehow increase the drive to improve schools for everyone else. Others say education reform is a question of more resources and better management. Still others say an education system for the 21st century should be defined by its results and schools exist only if they attract students and satisfy parents; they serve everyone; and they operate on the premise that all students can succeed.

Whatever your point of view, the task of making education work falls to all of us. If we have learned anything over the past decades, it is there is no quick fix. This proposal will not transform our schools overnight. However, over time, it will be a meaningful step toward improving the lives and futures of families in Louisiana and throughout this Nation. I believe we should explore, and I am exploring, other ideas and options to help State and local governments address their infrastructure needs.

Mr. President, I hope my colleagues will favorably consider this legislation. As we move through the 105th Congress and consider all of the various proposals to produce a balanced federal budget, we must be mindful that our intent is to provide, not deny, American families the means and the opportunity to take part in our global economy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 12

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 ''Education for the 21st Century Act''.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Quality public education is necessary not only for the future of our children and our families, but for the future of America. A better educated citizenry and workforce are essential to compete in the global economy and to maintain a strong democracy.

(2) The investment America makes today in the education of its people will determine the future of the Nation. In order to promote growth and prosperity in our economy, and ensure individual opportunity, America must maintain education as a national priority.

(3) Strong leadership in education is needed more than ever. Schools are facing the challenge of educating more highly skilled workers to meet the demands of a modern economy. The Bureau of Labor Statistics estimates that 60 percent of all jobs created between 1992 and 2005 will require more than a high school education.

(4) Mounting evidence suggests that far more rigorous levels of academic achievement will be required to equip American students for the 21st century workplace. Employers will demand increasingly sophisticated levels of literacy, communication, mathematical, and technological skills. Sixty percent of all jobs will require computer skills.

(5) Literacy is a crucial element of academic success. However, in 1994, 40 percent of 4th grade students failed to attain the basic level of reading on the National Assessment of Educational Progress. Seventy percent did not attain the proficient level. Students who are not reading at grade-level are very unlikely to graduate from high school. One-on-one tutoring is a key component of bringing students up to reading grade-level.

(6) Students are learning in decrepit school buildings. According to 2 recent Government Accounting Office reports, 14,000,000 children in a third of the Nation's schools are learning in substandard classrooms. Half of the schools have at least 1 unsatisfactory environmental condition, such as poor air quality.

(7) College costs are rising. College tuition has risen in private colleges and universities and in State institutions as State appropriations have eroded. From 1985 to 1994, the average cost of attending college rose by 30 percent after adjusting for inflation. During the same period, the median income increased by only 1 percent.

(8) Meeting the challenge of the next century will require the involvement of all Americans, including public officials, educators, parents, business and community leaders, and students. Encouraging active participation by all segments of communities is essential for the success of students in the 21st century.

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION

SEC. 101. REFUNDABLE CREDIT FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

''SEC. 35. HIGHER EDUCATION TUITION AND FEES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of qualified higher education expenses paid by the taxpayer during such taxable year.

''(b) CREDIT LIMITED TO $1,500 PER ACADEMIC YEAR.—

''(1) IN GENERAL.—The amount allowed as a credit under subsection (a) for any taxable year with respect to an eligible student shall not exceed the sum of the credit amounts for qualified academic periods beginning during such taxable year or the 1st 3 months of the next taxable year. A qualified academic period may not be taken into account under the preceding sentence more than once.

''(2) CREDIT ALLOWED ONLY FOR FIRST 2 ACADEMIC YEARS OF POST-SECONDARY EDUCATION.—For purposes of paragraph (1), the term 'qualified academic period' means, with respect to any student, any academic period for which such student is an eligible student if such period, when added to prior periods that such student was an eligible student, does not exceed 2 full-time academic years (or the equivalent thereof).

''(3) CREDIT AMOUNT.—For purposes of paragraph (1), except as otherwise provided in regulations prescribed by the Secretary, the credit amount for any academic period is the amount equal to—

''(A) $1,500, divided by

''(B) the number of such academic periods during the academic year.

In the case of an eligible student who is not a full-time student for an academic period, the credit amount for such period shall be ½ the amount determined under the preceding sentence.

''(4) INFLATION ADJUSTMENT OF CREDIT LIMITATION FOR ACADEMIC YEAR.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $1,500 amount in paragraph (3)(A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $50,000 ($80,000 in the case of a joint return), bears to

''(B) $20,000.

''(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year—

''(A) determined without regard to section 221, and

''(B) increased by any amount excluded from gross income under section 911, 931, or 933.

''(4) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in paragraph (2), section 221(b)(2)(B)(i)(II), and section 222(b)(2)(A)(ii) shall each be increased by an amount equal to—

''(i) such dollar amounts, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

''(d) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this section—

''(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

as an eligible student at an institution of higher education.

''(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the student's degree program.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

''(D) ELIGIBLE STUDENT.—

''(i) IN GENERAL.—The term 'eligible student' means, with respect to any academic period, a student who—

''(I) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(II) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing, as reasonably determined by the institution of higher education.

''(ii) GRADE-POINT REQUIREMENT.—A student shall not be treated as an eligible student if the student did not have a grade-point average of at least 2.75 on a 4-point scale (or met a substantially similar measure of achievement) for the students' high school education (or equivalent).

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution—

''(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) which is eligible to participate in programs under title IV of such Act.

''(3) FULL-TIME STUDENT.—The term 'full-time student' means any student who is carrying at least the normal full-time work load for the course of study the student is pursuing, as reasonably determined by the institution of higher education.

''(e) SPECIAL RULES.—

''(1) DENIAL OF CREDIT IF STUDENT CONVICTED OF DRUG OFFENSE.—No credit shall be allowed under subsection (a) for qualified higher education expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

''(2) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—No credit shall be allowed under subsection (a) for qualified higher education expenses for the enrollment or attendance of a student for any academic period if any such expense for the enrollment or attendance of such student for such period is allowed as a deduction to the taxpayer under any other provision of this chapter.

''(B) DEPENDENTS.—No credit shall be allowed under subsection (a) 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.

''(3) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to an eligible student other than the taxpayer unless the taxpayer includes the name and taxpayer identification number of such eligible student on the return of tax for the taxable year.

''(4) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of—

''(A) the amounts received with respect to such individual which are allocable to such period as—

''(i) a qualified scholarship which under section 117 is not includable in gross income,

''(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

''(iii) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States, and

''(B) the amount excludable from gross income under section 135 which is allocable to such expenses with respect to such individual for such period.

''(5) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(6) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(7) REGULATIONS.—The Secretary may, in consultation with the Secretary of Education, prescribe such regulations as may be necessary or appropriate to carry out this section, including—

''(A) regulations requiring recordkeeping and information reporting by the taxpayer and any other person the Secretary determines appropriate, and

''(B) regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.''

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting a comma, and by inserting after subparagraph (H) the following new subparagraph:

''(I) an omission of a correct TIN required under section 35(e)(3) or under section 220(d)(3)(B) (relating to higher education tuition and fees) to be included on a return.''

(c) CONFORMING AMENDMENTS.—

(1) 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''.

(2) The table of sections for subpart C of part IV of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 35. Higher education tuition and fees.

''Sec. 36. Overpayments of tax.''

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) PERIODS BEFORE 1998 TAKEN INTO ACCOUNT.—For purposes of applying section 35(b)(2)(A) of the Internal Revenue Code of 1986 (as added by this section), periods before January 1, 1998, that the student was an eligible student shall be taken into account.

SEC. 102. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.— Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

''SEC. 221. HIGHER EDUCATION TUITION AND FEES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed $10,000.

''(B) PHASE-IN.—In the case of taxable years beginning in 1998 or 1999, subparagraph (A) shall be applied by substituting '$5,000' for '$10,000'.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) (after application of paragraph (1)) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the deduction (determined without regard to this paragraph) as—

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $50,000 ($80,000 in the case of a joint return), bears to

''(ii) $20,000.

''(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (B), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(i) without regard to this section and sections 911, 931, and 933, and

''(ii) after the application of sections 86, 135, 137, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(D) CROSS REFERENCE.—

"For inflation adjustment of $50,000 and $80,000 amounts, see section 35(c)(4).

''(c) DEFINITIONS.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), terms used in this section which are also used in section 35 have the respective meanings given such terms in section 35.

''(2) DEDUCTION AVAILABLE FOR EDUCATION TO ACQUIRE OR IMPROVE JOB SKILLS.—For purposes of applying this section, the requirement of section 35(d)(1)(D)(ii) shall be treated as met if the student is enrolled in a course which enables the student to improve the student's job skills or to acquire new job skills.

''(d) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) for qualified higher education expenses with respect to which a deduction is allowable to the taxpayer under any other provision of this chapter unless the taxpayer irrevocably waives his right to the deduction of such expenses under such other provision.

''(2) LIMITATION ON TAXABLE YEAR OF DEDUCTION.—

''(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for any taxable year only to the extent the qualified higher education expenses are in connection with enrollment at an institution of higher education during the taxable year.

''(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the 1st 3 months of the next taxable year.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the following rules of section 35(e) shall apply for purposes of this section:

''(A) Paragraph (2)(B) (relating to denial of double benefit for dependents).

''(B) Paragraph (3) (relating to identification requirement).

''(C) Paragraph (4) (relating to adjustment for certain scholarships).

''(D) Paragraph (5) (relating to no benefit for married individuals filing separate returns).

''(E) Paragraph (6) (relating to nonresident aliens).

''(4) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting.''

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of such Code is amended by inserting after paragraph (16) the following new paragraph:

''(17) HIGHER EDUCATION TUITION AND FEES.—The deduction allowed by section 221.''

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 221 and inserting:

''Sec. 221. Higher education tuition and fees.

''Sec. 222. Cross reference.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 103. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals), as amended by section 102, is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. INTEREST ON EDUCATION LOANS.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

''(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the deduction (determined without regard to this subsection) as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $50,000 ($80,000 in the case of a joint return), bears to

''(B) $20,000.

''(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of paragraph (2), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(A) without regard to this section and sections 911, 931, and 933, and

''(B) after the application of sections 86, 135, 137, 219, 221, and 469.

For purposes of sections 86, 135, 219, 221, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(4) CROSS REFERENCE.—

"For inflation adjustment of $50,000 and $80,000 amounts, see section 35(c)(4).

''(c) DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

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

''(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

''(A) which are incurred on behalf of the taxpayer or the taxpayer's spouse,

''(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

''(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

''(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' has the meaning given such term by section 35(d) (without regard to paragraph (1)(D)(ii)), reduced by the sum of—

''(A) the amount excluded from gross income under section 135 by reason of such expenses, and

''(B) the amount of the reduction described in section 135(d)(1).

For purposes of applying section 35(d) under the preceding sentence, the term 'eligible educational institution' shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

''(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

''(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

''(e) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.''

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code, as amended by section 102, is amended by inserting after paragraph (17) the following new paragraph:

''(18) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 222.''

(c) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

''(a) EDUCATION LOAN INTEREST OF $600 OR MORE.—Any person—

''(1) who is engaged in a trade or business, and

''(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans, shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe,

''(2) contains—

''(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,

''(B) the amount of such interest received for the calendar year, and

''(C) such other information as the Secretary may prescribe.

''(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

''(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

''(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

''(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

''(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS 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 name and address of the person required to make such return, and

''(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'qualified education loan' has the meaning given such term by section 222(d)(1).

''(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).''

(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—

(A) by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, in paragraph (1)(B) and by inserting after clause (ix) of such paragraph the following new clause:

''(x) section 6050S (relating to returns relating to education loan interest received in trade or business from individuals),'', and

(B) by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(Z) section 6050R (relating to returns relating to education loan interest received in trade or business from individuals).''

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

''Sec. 222. Interest on education loans.

''Sec. 223. Cross reference.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 222(d)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1997.

TITLE II—EDUCATIONAL FACILITIES IMPROVEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Educational Facilities Improvement Act''.

SEC. 202. PROVISION OF ASSISTANCE FOR CONSTRUCTION AND RENOVATION OF EDUCATIONAL FACILITIES.

Title XII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8501 et seq.) is amended—

(1) by repealing sections 12002 and 12003;

(2) by redesignating sections 12001 and 12004 through 12013, as sections 12101 and 12102 through 12111, respectively;

(3) by inserting after the title heading the following:

''SEC. 12001. FINDINGS.

''The Congress finds the following:

''(1) The General Accounting Office performed a comprehensive survey of the Nation's public elementary and secondary school facilities, and found severe levels of disrepair in all areas of the United States.

''(2) The General Accounting Office concluded more than 14,000,000 children attend schools in need of extensive repair or replacement. Seven million children attend schools with life safety code violations. Twelve million children attend schools with leaky roofs.

''(3) The General Accounting Office found the problem of crumbling schools transcends demographic and geographic boundaries. At 38 percent of urban schools, 30 percent of rural schools, and 29 percent of suburban schools, at least 1 building is in need of extensive repair or should be completely replaced.

''(4) The condition of school facilities has a direct affect on the safety of students and teachers, and on the ability of students to learn.

''(5) Academic research has proven a direct correlation between the condition of school facilities and student achievement. At Georgetown University, researchers found students assigned to schools in poor condition can be expected to fall 10.9 percentage points below those in buildings in excellent condition. Similar studies have demonstrated up to a 20 percent improvement in test scores when students were moved from a poor facility to a new facility.

''(6) The General Accounting Office found most schools are not prepared to incorporate modern technology into the classroom. Forty-six percent of schools lack adequate electrical wiring to support the full-scale use of technology. More than a third of schools lack the requisite electrical power. Fifty-six percent of schools have insufficient phone lines for modems.

''(7) The Department of Education reported that elementary and secondary school enrollment, already at a record high level, will continue to grow during the period between 1996 and 2000, and that in order to accommodate this growth, the United States will need to build an additional 6,000 schools over this time period.

''(8) The General Accounting Office found it will cost $112,000,000,000 just to bring schools up to good, overall condition, not including the cost of modernizing schools so the schools can utilize 21st century technology, nor including the cost of expansion to meet record enrollment levels.

''(9) State and local financing mechanisms have proven inadequate to meet the challenges facing today's aging school facilities. Large numbers of local educational agencies have difficulties securing financing for school facility improvement.

''(10) The Federal Government can support elementary and secondary school facilities, and can leverage additional funds for the improvement of elementary and secondary school facilities.

''SEC. 12002. PURPOSE.

''The purpose of this title is to help State and local authorities improve the quality of education at their public schools through the provision of Federal funds to enable the State and local authorities to meet the cost associated with the improvement of school facilities within their jurisdictions.

''PART A—GENERAL INFRASTRUCTURE IMPROVEMENT GRANT PROGRAM'';

and

(4) by adding at the end the following:

''PART B—CONSTRUCTION AND RENOVATION BOND SUBSIDY PROGRAM

''SEC. 12201. DEFINITIONS.

''As used in this part:

''(1) EDUCATIONAL FACILITY.—The term educational facility'' has the meaning given the term 'school' in section 12110.

''(2) LOCAL AREA.—The term 'local area' means the geographic area served by a local educational agency.

''(3) LOCAL BOND AUTHORITY.—The term 'local bond authority' means—

''(A) a local educational agency with authority to issue a bond for construction or renovation of educational facilities in a local area; and

''(B) a political subdivision of a State with authority to issue such a bond for an area including a local area.

''(4) POVERTY LINE.—The term 'poverty line' means the 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 (42 U.S.C. 9902(2))) applicable to a family of the size involved.

''(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''SEC. 12202. AUTHORIZATION OF PROGRAM.

''(a) PROGRAM AUTHORITY.—Of the amount appropriated under section 12210 for a fiscal year and not reserved under subsection (b), the Secretary shall use—

''(1) 20 percent of such amount to award grants to local bond authorities for not more than 125 eligible local areas as provided for under section 12203; and

''(2) 80 percent of such amount to award grants to States as provided for under section 12204.

''(b) SPECIAL RULE.—The Secretary may reserve—

''(1) not more than 1 percent of the amount appropriated under section 12210 to provide assistance to Indian schools in accordance with the purpose of this title;

''(2) not more than 0.5 percent of the amount appropriated under section 12210 to provide assistance to Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau to carry out the purpose of this title; and

''(3) not more than 0.1 percent of the amount appropriated under section 12210 to carry out section 12209.

"SEC. 12203. DIRECT GRANTS TO LOCAL BOND AUTHORITIES.

''(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(1) to eligible local bond authorities to provide assistance for construction or renovation of educational facilities in a local area.

''(b) USE OF FUNDS.—The local bond authority shall use amounts received through a grant made under section 12202(a)(1) to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

''(c) ELIGIBILITY AND DETERMINATION.—

''(1) ELIGIBILITY.—To be eligible to receive a grant under section 12202(a)(1) for a local area, a local bond authority shall demonstrate the capacity to issue a bond for an area that includes 1 of the 125 local areas for which the Secretary has made a determination under paragraph (2).

''(2) DETERMINATION.—

''(A) MANDATORY.—The Secretary shall make a determination of the 100 local areas that have the highest numbers of children who are—

''(i) aged 5 to 17, inclusive; and

''(ii) members of families with incomes that do not exceed 100 percent of the poverty line.

''(B) DISCRETIONARY.—The Secretary may make a determination of 25 local areas, for which the Secretary has not made a determination under subparagraph (A), that have extraordinary needs for construction or renovation of educational facilities that the local bond authority serving the local area is unable to meet.

''(d) APPLICATION.—To be eligible to receive a grant under section 12202(a)(1), a local bond authority shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) an assurance that the application was developed in consultation with parents and classroom teachers;

''(2) information sufficient to enable the Secretary to make a determination under subsection (c)(2) with respect to such local authority;

''(3) a description of the architectural, civil, structural, mechanical, or electrical construction or renovation to be supported with the assistance provided under this part;

''(4) a cost estimate of the proposed construction or renovation;

''(5) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which assistance is requested under this part;

''(6) a description of how activities supported with funds provided under this part will promote energy conservation; and

''(7) such other information and assurances as the Secretary may require.

''(e) AWARD OF GRANTS.—

''(1) IN GENERAL.—In awarding grants under section 12202(a)(1), the Secretary shall give preference to a local bond authority based on—

''(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks a grant (as appropriate) meets the criteria described in section 12103(a);

''(B) the extent to which the educational facility is overcrowded; and

''(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

''(2) AMOUNT OF ASSISTANCE.—

''(A) IN GENERAL.—In determining the amount of assistance for which local bond authorities are eligible under section 12202(a)(1), the Secretary shall—

''(i) give preference to a local bond authority based on the criteria specified in paragraph (1); and

''(ii) consider—

''(I) the amount of the cost estimate contained in the application of the local bond authority under subsection (d)(4);

''(II) the relative size of the local area several by the local bond authority; and

''(III) any other factors determined to be appropriate by the Secretary.

''(B) MAXIMUM AMOUNT OF ASSISTANCE.—A local bond authority shall be eligible for assistance under section 12202(a)(1) in an amount that does not exceed the appropriate percentage under section 12204(f)(3) of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area involved.

"SEC. 12204. GRANTS TO STATES.

''(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(2) to each eligible State to provide assistance to the State, or local bond authorities in the State, for construction and renovation of educational facilities in local areas.

''(b) USE OF FUNDS.—The State shall use amounts received through a grant made under section 12202(a)(2)—

''(1) to pay a portion of the interest costs applicable to any State bond issued to finance an activity described in section 12205 with respect to the local areas; or

''(2) to provide assistance to local bond authorities in the State to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local areas.

''(c) AMOUNT OF GRANT TO STATE.—

''(1) IN GENERAL.—From the amount available for grants under section 12202(a)(2), the Secretary shall award a grant to each eligible State that is equal to the total of—

''(A) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under part A of title I for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such part for such year; and

''(B) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under title VI for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such title for such year.

''(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—For the purpose of paragraph (1) the term 'eligible local educational agency' means a local educational agency that does not serve a local area for which an eligible local bond authority received a grant under section 12203

''(d) STATE APPLICATIONS REQUIRED.—To be eligible to receive a grant under section 12202(a)(2), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall contain—

''(1) a description of the process the State will use to determine which local bond authorities will receive assistance under subsection (b)(2).

''(2) an assurance that grant funds under this section will be used to increase the amount of school construction or renovation in the State for a fiscal year compared to such amount in the State for the preceding fiscal years.

''(e) ADMINISTERING AGENCY.—

''(1) IN GENERAL.—The State agency with authority to issue bonds for the construction or renovation of educational facilities, or with the authority to otherwise finance such construction or renovation, shall administer the amount received through the grant.

''(2) SPECIAL RULE.—If no agency described in paragraph (1) exits, or if there is more than one such agency, then the chief executive officer of the State and the chief State school officer shall designate a State entity or individual to administer the amounts received through the grant.

''(f) ASSISTANCE TO LOCAL BOND AUTHORITIES.—

''(1) IN GENERAL.—To be eligible to receive assistance from a State under this section, a local bond authority shall prepare and submit to the State agency designated under subsection (e) an application at such time, in such manner, and containing such information as the State agency may require, including the information described in section 12203(d).

''(2) CRITERIA.—In awarding grants under this section, the State agency shall give preference to a local bond authority based on—

''(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks the grant (as appropriate) meets the criteria described in section 12103(a);

''(B) the extent to which the educational facility is overcrowded; and

''(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

''(3) AMOUNT OF ASSISTANCE.—A local bond authority seeking assistance for a local area served by a local educational agency described in—

''(A) clause (i)(I) or clause (ii)(I) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 10 percent;

''(B) clause (i)(II) or clause (ii)(II) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 20 percent;

''(C) clause (i)(III) or clause (ii)(III) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 30 percent;

''(D) clause (i)(IV) or clause (ii)(IV) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 40 percent; and

''(E) clause (i)(V) or clause (ii)(V) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 50 percent;

of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

''(g) ASSISTANCE TO STATE.—

''(1) IN GENERAL.—If a State issues a bond to finance an activity described in section 12205 with respect to local areas, the State shall be eligible for assistance in an amount that does not exceed the percentage calculated under the formula described in paragraph (2) of the interest costs applicable to the State bond with respect to the local areas.

''(2) FORMULA.—The Secretary shall develop a formula for determining the percentage referred to in paragraph (1). The formula

shall specify that the percentage shall consist of a weighted average of the percentages referred to in subparagraphs (A) through (E) of subsection (f)(3) for the local areas involved.

"SEC. 12205. AUTHORIZED ACTIVITIES.

''An activity described in this section is a project of significant size and scope that consists of—

''(1) the repair or upgrading of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or light equipment;

''(2) an activity to increase physical safety at the educational facility involved;

''(3) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

''(4) an activity to improve the energy efficiency of the educational facility involved;

''(5) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

''(6) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

''(7) the construction of new schools to meet the needs imposed by enrollment growth; and

''(8) any other activity the Secretary determines achieves the purpose of this title.

"SEC. 12206. STATE GRANT WAIVERS.

''(a) WAIVER FOR STATE ISSUANCE OF BOND.—

''(1) IN GENERAL.—A State that issues a bond described in section 12204(b)(1) with respect to a local area may request that the Secretary waive the limits described in section 12204(f)(3) for the local area, in calculating the amount of assistance the State may receive under section 12204(g). The State may request the waiver only if no local entity is able, for one of the reasons described in subparagraphs (A) through (F) of paragraph (2), to issue bonds on behalf of the local area. Under such a waiver, the Secretary may permit the State to use amounts received through a grant made under section 12202(a)(2) to pay for not more than 80 percent of the interest costs applicable to the State bond with respect to the local area.

''(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that—

''(A) the local bond authority serving the local area has reached a limit on its borrowing authority as a result of a debt ceiling or property tax cap;

''(B) the local area has a high percentage of low-income residents, or an unusually high property tax rate;

''(C) the demographic composition of the local area will not support additional school spending;

''(D) the local bond authority has a history of failed attempts to pass bond referenda;

''(E) the local area contains a significant percentage of Federally-owned land that is not subject to local taxation; or

''(F) for another reason, no local entity is able to issue bonds on behalf of the local area.

''(b) WAIVER FOR OTHER FINANCING SOURCES.—

''(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a local bond authority to permit the State to provide assistance to the local bond authority to finance construction or renovation by means other than through the issuance of bonds.

''(2) USE OF FUNDS.—A State that receives a waiver granted under this subsection may provide assistance to a local bond authority in accordance with the criteria described in section 12204(f)(2) to enable the local bond authority to repay the costs incurred by the local bond authority in financing an activity described in section 12205. The local bond authority shall be eligible to receive the amount of such assistance that the Secretary estimates the local bond authority would be eligible to receive under section 12204(f)(3) if the construction or renovation were financed through the issuance of a bond.

''(3) MATCHING REQUIREMENT.—The State shall make available to the local bond authority (directly or through donations from public or private entities) non-Federal contributions in an amount equal to not less than $1 for every $1 of Federal funds provided to the local bond authority through the grant.

''(c) WAIVER FOR OTHER USES.—

''(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a State to permit the State to carry out activities that achieve the purpose of this title.

''(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that the use of assistance provided under the waiver—

''(A) will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation; and

''(B) will be used to fund activities that are effective in carrying out the activities described in section 12205, such as—

''(i) the capitalization of a revolving loan fund for such construction or renovation;

''(ii) the use of funds for reinsurance or guarantees with respect to the financing of such construction or renovation;

''(iii) the creation of a mechanism to leverage private sector resources for such construction or renovation;

''(iv) the capitalization of authorities similar to State Infrastructure Banks to leverage additional funds for such construction or renovation; or

''(v) any other activity the Secretary determines achieves the purpose of this title.

''(d) LOCAL BOND AUTHORITY WAIVER.—

''(1) IN GENERAL.—A local bond authority may request the Secretary waive the use requirements of section 12203(b) for a local head authority to permit the authority to finance construction or renovation of educational facilities by means other than through use of bonds.

''(2) DEMONSTRATION.—To be eligible to receive a waiver under this subsection, a local bond authority shall demonstrate that the amounts made available through a grant under the waiver will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation.

''(e) REQUEST FOR WAIVER.—A State or local bond authority that desires a waiver under this section shall submit a waiver request to the Secretary that—

''(1) identifies the type of waiver requested;

''(2) with respect to a waiver described in subsections (a), (c), or (d), makes the demonstration described in subsections (a)(2), (c)(2), or (d)(2), respectively;

''(3) describes the manner in which the waiver will further the purpose of this title; and

''(4) describes the use of assistance provided under such waiver.

''(f) ACTION BY SECRETARY.—The Secretary shall make a determination with respect to a request submitted under subsection (d) not later than 90 days after the date on which such request was submitted.

''(g) GENERAL REQUIREMENTS.—

''(1) STATES.—In the case of a waiver request submitted by a State under this section, the State shall—

''(A) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

''(B) submit the comments to the Secretary; and

''(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

''(2) LOCAL BOND AUTHORITIES.—In the case of a waiver request submitted by a local bond authority under this section, the local bond authority shall—

''(A) provide the affected local educational agency with notice and a reasonable opportunity to comment on the request;

''(B) submit the comments to the Secretary; and

''(C) provide notice and information to the public regarding the waiver request in the manner that the applying local bond authority customarily provides similar notices and information to the public.

"SEC. 12207. GENERAL PROVISIONS.

''(a) FAILURE TO ISSUE BONDS.—

''(1) STATES.—If a State that receives assistance under this part fails to issue a bond for which the assistance is provided, the amount of such assistance shall be made available to the State as provided for under section 12204, during the first fiscal year following the date of repayment.

''(2) LOCAL BOND AUTHORITIES AND LOCAL AREAS.—If a local bond authority that receives assistance under this part fails to issue a bond, or a local area that receives such assistance fails to become the beneficiary of a bond, for which the assistance is provided, the amount of such assistance—

''(A) in the case of assistance received under section 12202(a)(1), shall be repaid to the Secretary and made available as provided for under section 12203; and

''(B) in the case of assistance received under section 12202(a)(2), shall be repaid to the State and made available as provided for under section 12204.

''(b) LIABILITY OF THE FEDERAL GOVERNMENT.—The Secretary shall not be liable for any debt incurred by a State or local bond authority for which assistance is provided under this part. If such assistance is used by a local educational agency to subsidize a debt other than the issuance of a bond, the Secretary shall have no obligation to repay the lending institution to whom the debt is owed if the local educational agency defaults.

"SEC. 12208. FAIR WAGES.

''The provisions of section 12107 shall apply with respect to all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part using assistance provided under this part.

"SEC. 12209. REPORT.

''From amounts reserved under section 12202(b)(3) for each fiscal year the Secretary shall—

''(1) collect such data as the Secretary determines necessary at the school, local, and State levels;

''(2) conduct studies and evaluations, including national studies and evaluations, in order to—

''(A) monitor the progress of activities supported with funds provided under this part; and

''(B) evaluate the state of United States educational facilities; and

''(3) report to the appropriate committees of Congress regarding the findings of the studies and evaluations described in paragraph (2).

''SEC. 12210. FUNDING.

''(a) IN GENERAL.—There are appropriated $5,000,000,000 for fiscal year 1998 to carry out this part.

''(b) ENTITLEMENT.—Subject to subsection (a), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.

''(c) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available until expended.''.

SEC. 203. FUNDING.

Section 12111 of the Educated Infrastructure Act of 1994 (as redesignated by section 202(2)) (20 U.S.C. 8513) is amended to read as follows:

''SEC. 12111. FUNDING.

''(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this part $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

''(b) APPROPRIATION.—There are appropriated to carry out this part $150,000,000 for each of the fiscal years 1998 through 2002.

''(c) ENTITLEMENT.—Subject to subsection (b), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.''.

SEC. 204. CONFORMING AMENDMENTS.

(a) CROSS REFERENCES.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by section 202(3)) is amended—

(1) in section 12102(a) (as redesignated by section 202(2))—

(A) in paragraph (1)—

(i) by striking ''12013'' and inserting ''12111'';

(ii) by striking ''12005'' and inserting ''12103''; and

(iii) by striking ''12007'' and inserting ''12105''; and

(B) in paragraph (2), by striking ''12013'' and inserting ''12111''; and

(2) in section 12110(3)(C) (as redesignated by section 202(2)), by striking ''12006'' and inserting ''12104''.

(b) CONFORMING AMENDMENTS.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by section 202(3)) (20 U.S.C. 8501 et seq.) is further amended—

(1) in section 12101 (as redesignated by section 202(2)), by striking ''This title'' and inserting ''This part''; and

(2) in sections 12102(a)(2), 12102(b)(1), 12103(a), 12103(b), 12103(b)(2), 12103(c), 12103(d), 12104(a), 12104(b)(2), 12104(b)(3), 12104(b)(4), 12104(b)(6), 12104(b)(7), 12105(a), 12105(b), 12106(a), 12106(b), 12106(c), 12106(c)(1), 12106(c)(7), 12106(e), 12107, 12108(a)(1), 12108(a)(2), 12108(b)(1), 12108(b)(2), 12108(b)(3), 12108(b)(4), 12109(2)(A), and 12110 (as redesignated by section 202(2)), by striking ''this title'' each place it appears and inserting ''this part''.

TITLE III—AMERICA READS CHALLENGE

SEC. 301. FINDINGS.

Congress finds as follows:

(1) With the proper support and teaching, all children can learn to read at grade-level by the end of the 3d grade.

(2) Students who are not reading at grade-level are very unlikely to graduate from high school.

(3) Reading is a fundamental skill for learning, but in 1994, 40 percent of 4th grade students failed to attain the basic level of reading on the National Assessment of Education Progress. Seventy percent of 4th graders did not attain the proficient level of reading.

(4) Parents are the best first teachers. Parents can help to increase their children's reading levels, for example, by reading with their child 30 minutes a day. Evidence shows that greater parental support of children's literacy success makes a significant difference.

(5) One-on-one tutoring is a key component of bringing students up to reading at grade-level.

(6) Pre-school preparation and family involvement is widely recognized to improve student performance. Preparing children to learn, both through parent involvement and through pre-school preparation, plays a crucial role in preventing students from falling behind.

Subtitle A—Parents As First Teachers Challenge Grants

SEC. 311. SHORT TITLE.

This subtitle may be cited as the ''Parents as First Teachers Challenge Grant Act of 1997''.

SEC. 312. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that parents are the best first teachers.

(b) PURPOSE.—The purpose of this subtitle is to support effective, proven efforts that provide assistance to parents who want to help their children become successful readers by the end of the 3d grade.

SEC. 313. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE CHILD.—The term ''eligible child'' means an individual eligible to attend preschool, kindergarten, or 1st, 2d, or 3d grade.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 314. GRANTS AUTHORIZED.

(a) GRANTS FOR NATIONAL OR REGIONAL NETWORKS.—The Secretary is authorized to award at least 2 grants to public or private agencies or institutions to enable the agencies or institutions to support national or regional networks that share information on helping eligible children read.

(b) GRANTS FOR SUCCESSFUL PROGRAMS OR ACTIVITIES.—The Secretary is authorized to award at least 2 grants to State or local government agencies, nonprofit community groups or organizations, or consortia thereof, to enable such agencies, groups, organizations, or consortia to expand or replicate successful programs or activities that helps a parent—

(1) be a good teacher to the parent's eligible child; and

(2) assist the parent's eligible child in attaining reading skills while assisting the eligible child to learn to read.

SEC. 315. RECIPIENT CRITERIA.

(a) GRANTS FOR NATIONAL OR REGIONAL NETWORKS.—In order to receive a grant under section 312(a), a public or private agency or institution shall have a proven record of working with parents of eligible children.

(b) GRANTS FOR SUCCESSFUL PROGRAMS OR ACTIVITIES.—In order to receive a grant under section 314(b), an agency, group, organization, or consortium shall have a proven record of working with parents to improve their eligible children's reading.

SEC. 316. APPLICATIONS.

(a) IN GENERAL.—Each entity desiring a grant under this subtitle shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) APPLICATIONS FOR GRANTS FOR NATIONAL OR REGIONAL NETWORKS.—Each application submitted under subsection (a) for a grant under section 314(a) shall—

(1) demonstrate the likelihood that the proposed program or activity will have a substantial regional or national impact;

(2) demonstrate the cost-effectiveness of the proposed program or activity; and

(3) describe how the proposed program or activity will be coordinated with private sector programs and activities, and State and local programs and activities that provide support for parents of eligible children.

(c) APPLICATIONS FOR GRANTS FOR SUCCESSFUL PROGRAMS OR ACTIVITIES.—Each application submitted under subsection (a) for a grant under section ___04(b) shall—

(1) describe a program or activity that is capable of successful expansion or replication;

(2) contain evidence of community support for the proposed program or activity from the private sector, a school, and another entity;

(3) contain information demonstrating the cost-effectiveness of the proposed program or activity; and

(4) provide an assurance that the applicant will coordinate the proposed program or activity with State and local programs and activities that provide support for parents of eligible children.

SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

(a) APPROPRIATIONS.—There are appropriated to carry out this subtitle $45,000,000 for fiscal year 1998, $50,000,000 for fiscal year 1999, $60,000,000 for fiscal year 2000, $70,000,000 for fiscal year 2001, and $75,000,000 for fiscal year 2002.

(b) ENTITLEMENT.—Subject to subsection (a), each entity receiving a grant under this title for a fiscal year shall be entitled to payments for such year under the grant.

Subtitle B—Challenging America's Young Readers

SEC. 321. SHORT TITLE.

This subtitle may be cited as the ''Challenging America's Young Readers Act of 1997''.

SEC. 322. PURPOSE.

The purpose of this subtitle is to raise reading levels by providing tutoring assistance outside regular school hours to children eligible to attend preschool, kindergarten, or 1st, 2d, or 3d grade.

SEC. 323. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATORS.—The term ''Administrators'' means the Secretary of Education and the Chief Executive Officer of the Corporation for National and Community Service acting pursuant to the agreement entered into under section 324(c).

(2) ELIGIBLE CHILD.—The term ''eligible child'' means an individual eligible to attend preschool, kindergarten, or 1st, 2d, or 3d grade.

(3) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(4) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the meaning given the term by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 324. PROGRAM AUTHORIZED.

(a) ALLOTMENT AND RESERVATIONS.—

(1) ALLOTMENT.—From the sum made available under section 330(b) and not reserved under paragraph (5) for a fiscal year, the Administrators shall make an allotment to

each State educational agency for the fiscal year in an amount that bears the same relation to the sum as the amount such State received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal year bears to the amount all States received under such part for the previous fiscal year.

(2) RESERVATIONS.—

(A) IN GENERAL.—From the sum made available under section 330(b) for a fiscal year, the Administrators—

(i) shall reserve 10 percent of such sum to carry out local reading programs under section 326;

(ii) shall reserve not more than 1.5 percent of such sum to carry out national leadership and evaluation activities under section 327;

(iii) shall reserve the percentage described in subparagraph (B) of such sum to make a payment to the Secretary of the Interior to enable the Secretary of the Interior to carry out the purpose of this subtitle for Indian children; and

(iv) shall reserve 0.25 percent of such sum to make payments to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau on the basis of their respective need for assistance according to such criteria as the Secretary determines will best carry out the purpose of this subtitle.

(B) PERCENTAGE.—The percentage referred to in subparagraph (A)(iii) for a fiscal year is the percentage of funds reserved under section 1121(a)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331(a)(2)) for the Secretary of the Interior for such previous year.

(b) GRANTS.—

(1) IN GENERAL.—Each State educational agency receiving an allotment under subsection (a)(1) shall use such allotment to award grants, on a competitive basis, to organizations in the State to enable the organizations—

(A) to employ reading specialists to supervise tutoring programs that teach eligible children to read;

(B) to recruit and train tutors for tutoring programs that teach eligible children to read; and

(C) to carry out tutoring programs that teach eligible children to read.

(2) SPECIAL RULE.—Each tutoring program assisted through a grant awarded under paragraph (1) shall be conducted before or after regular school hours, or during the weekend or the summer.

(c) COMMUNITY AND NATIONAL SERVICE FUNDS.—The Administrators shall use amounts reserved under section 330(a) for a fiscal year to carry out the activities described in subparagraphs (A) through (C) of subsection (b)(1) during the periods described in subsection (b)(2) in accordance with the National and Community Service Act of 1990 (42 U.S.C. 12501).

(d) JOINT ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Education and the Chief Executive Officer of the Corporation for National and Community Service shall administer this subtitle jointly pursuant to an agreement between the Secretary and the Chief Executive Officer.

(2) AGREEMENT.—The agreement described in paragraph (1) shall establish the responsibilities of the Secretary of Education and the Chief Executive Officer of the Corporation for National and Community Service for administering this subtitle. Such agreement shall—

(A) not require more than one application from any one State educational agency or local applicant;

(B) encourage, but not require, the use of volunteers assisted through funding made available under section 330(a) to serve as volunteer recruiters and coordinators; and

(C) include only one application review process.

SEC. 325. APPLICATIONS.

(a) STATE.—Each State educational agency desiring an allotment under this subtitle shall submit an application to the Administrators at such time, in such manner, and containing such information as the Administrators may require. Each such application shall—

(1) describe how the State educational agency will award grants under this subtitle; and

(2) describe how the State educational agency will encourage use of activities assisted under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(b) LOCAL.—Each organization desiring a grant under section 324(b) shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require. Each such application shall—

(1) describe how the proposed program or activity will be linked with the curriculum of the appropriate local educational agency, school, or classroom, and other reading enhancement activities of the school and the eligible children;

(2) contain a description of how the applicant will use the grant funds to provide assistance to economically disadvantaged communities, and schools, in which eligible children have the greatest need for reading assistance;

(3) contain an assurance that the proposed program or activity will focus on providing individualized tutoring in reading that involves trained and supervised volunteers who have been approved by the applicant; and

(4) describe the strategies that will be undertaken through the program or activity to ensure that eligible children will make progress in reading;

(5) describe how the applicant will evaluate the program or activity, including measuring progress toward improving the reading performance of eligible children, and improve the program or activity if eligible children do not make progress in improving reading performance; and

(6) demonstrate how the program or activity—

(A) will be coordinated with activities of local school personnel, and activities assisted under the Head Start Act (42 U.S.C. 9831 et seq.), Even Start, other provisions of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), particularly with respect to referral of eligible children; and

(B) will be developed and carried out with strong parent, community, and private sector involvement.

SEC. 326. LOCAL READING PROGRAMS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From amounts reserved under section 324(a)(2)(A)(i) for a fiscal year, the Administrators shall award grants to local entities for the planning, implementation, or expansion of local reading programs that serve economically disadvantaged communities.

(2) SPECIAL RULE.—In awarding grants under paragraph (1) for a fiscal year, the Administrators shall ensure that at least 1 such grant is awarded to serve an urban economically disadvantaged community and at least 1 such grant is awarded to serve a rural economically disadvantaged community.

(b) APPLICATION.—Each local entity desiring a grant under subsection (a) shall submit an application to the Administrators at such time, in such manner, and accompanied by such information as the Administrators may require. Each such application shall include the information and assurances described in section 325(b) with respect to such local entity.

SEC. 327. NATIONAL LEADERSHIP AND EVALUATION.

(a) NATIONAL LEADERSHIP.—From a portion of amounts reserved under section 324(a)(2)(A)(ii) for a fiscal year, the Administrators may carry out national leadership activities, including dissemination of information on effective practices, providing technical assistance materials, and other activities, to increase the performance of eligible children in the States.

(b) EVALUATION.—

(1) IN GENERAL.—From a portion of the amounts reserved under section 324(a)(2)(A)(ii) for a fiscal year, the Administrators, through a grant, contract, or cooperative agreement, shall evaluate, and submit reports to Congress regarding, the effectiveness of programs and activities assisted under this subtitle.

(2) REPORT DATES.—The reports described in paragraph (1) shall be submitted to Congress on September 1, 2000, and every 2 years thereafter.

SEC. 328. ADJUSTMENT OR TERMINATION OF FUNDING.

Notwithstanding any other provision of this subtitle, the Administrators may decrease or terminate any funding provided under this subtitle if the Administrators determine that a recipient of such funding does not—

(1) improve reading performance with respect to eligible children; or

(2) implement the recipient's strategies to improve reading performance with respect to eligible children.

SEC. 329. NONDUPLICATION AND NONDISPLACEMENT.

(a) NONDUPLICATION.—Assistance provided under this subtitle shall be used only for a program or activity that does not duplicate, and is in addition to, an activity otherwise available in the locality of such program or activity.

(b) NONDISPLACEMENT.—An employer shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the use by such employer of a participant in a program or activity receiving assistance under this subtitle.

SEC. 330. FUNDING.

(a) RESERVATION.—From amounts made available to carry out the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) for each of the fiscal years 1998 through 2002, the Chief Executive Officer of the Corporation for National and Community Service shall make available $200,000,000 to carry out this subtitle.

(b) APPROPRIATION.—There are appropriated to the Secretary of Education to carry out this subtitle $200,000,000 for fiscal year 1998, $250,000,000 for fiscal year 1999, $300,000,000 for fiscal year 2000, $350,000,000 for fiscal year 2001, and $350,000,000 for fiscal year 2002.

(c) ENTITLEMENT.—Subject to subsections (a) and (b), each entity receiving an allotment, awarded a grant, or entering into a contract or cooperative agreement, under this subtitle for a fiscal year shall be entitled to payments for such year under the allotment, grant, contract, or cooperative agreement.

TITLE IV—INVESTING IN TECHNOLOGY FOR THE CLASSROOMS

Subtitle A—Sense of the Senate

SEC. 401. FINDINGS.

Congress finds as follows:

(1) Technology in the schools is a central component of preparing students for the 21st century.

(2) Equipping schools with technology is no longer a luxury. It is a necessity. By the year 2000, 60 percent of all jobs in the Nation will require skills in computer and network use.

(3) Technology in the classroom improves students' mastery of basic skills, test scores, writing, and engagement in school. With these gains come decreases in dropout rates and decreases in attendance and discipline problems.

(4) Not enough students have access to computers, distance learning, and telecommunications technologies. A 1995 Government Accounting Report report estimates that 10,000,000 students, and 1 school in every 4 schools, do not have sufficient computers to meet their needs.

(5) Of the 5,800,000 computers in United States schools, many are older models that do not have the power to perform advanced functions such as those involving video and the Internet.

(6) Only 9 percent of all instructional rooms including classrooms, laboratories, and library media, have connections to the Internet.

(7) The Federal Government began a new commitment to funding education technology by investing an additional $200,000,000 in subpart 2 of part A of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6841 et seq.) in fiscal year 1997. Although such investment is an important investment, it is not sufficient to meet the technology needs of schools and school children in the 21st century.

SEC. 402. SENSE OF THE SENATE.

It is the Sense of the Senate that it is in the Nation's best interest for the Federal Government to invest at least $1,800,000,000 in additional funding for education technology programs between fiscal years 1998 and 2002.

Subtitle B—Educational Technology Clearinghouses

SEC. 421. PURPOSE.

It is the purpose of this subtitle to authorize a program to support regional educational technology clearinghouses that facilitate the donation of surplus equipment and technology to schools and libraries from Federal or State governmental agencies, businesses, and other private entities.

SEC. 422. AUTHORITY.

(a) IN GENERAL.—The Secretary of Education shall make grants to or enter into contracts with regional public or private nonprofit entities for the purpose of supporting a system of regional educational technology clearinghouses. In awarding the grants or contracts, the Secretary shall ensure that each geographic region of the United States is served by such an entity.

(b) DURATION.—The Secretary shall award grants and contracts under this subtitle for a period of 5 years.

SEC. 423. REQUIREMENTS.

Each entity receiving a grant or contract under this subtitle shall—

(1) in cooperation with State educational agencies and local educational agencies, develop a regional program to support a clearinghouse that facilitates the transfer of surplus equipment and technology to schools and libraries from Federal or State governmental agencies, businesses, and other private entities;

(2) disseminate information to State educational agencies and local educational agencies about the availability and procurement of the equipment and technology through the clearinghouse;

(3) disseminate information to the public about activities assisted under this subtitle, including information about the donations being accepted by the clearinghouse;

(4) have in place a process for ensuring that surplus equipment and technology is distributed in a fair and equitable manner, with school districts with the greatest need for such equipment and technology receiving priority for donations under this subtitle;

(5) provide technical assistance to a school or library to ensure that the equipment and technology being donated is consistent with the short- and long-term educational technology plans of the school or library, respectively;

(6) use funds under this subtitle to upgrade equipment or technology only if the entity determines such upgrading meets the short- and long-term educational plan of the school or library receiving the equipment or technology; and

(7) ensure that the transfer of equipment and technology does not violate copyright, patent, or trademark laws.

SEC. 424. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $5,000,000 for fiscal year 1998 and such sums as may be necessary for each of the 4 succeeding fiscal years.

By Mr. DASCHLE (for himself, Ms. MIKULSKI, Mr. KENNEDY, Mr. BREAUX, Mr. DODD, Mrs. MURRAY, Mr. INOUYE, Mr. JOHNSON, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Mr. DURBIN, Mr. KERRY, and Mr. GLENN):

S. 13. A bill to provide access to health insurance coverage for uninsured children and pregnant women; to the Committee on Finance.

CHILDREN'S HEALTH COVERAGE ACT OF 1997

Mr. BREAUX. Mr. President, I rise today in support of the Children's Health Coverage Act of 1997, a bill designed to expand health insurance for an estimated 10 million American children who have no health insurance. Last year, when Congress passed the Kassebaum/Kennedy bill, it took a big step towards increasing the availability of private health insurance coverage for certain children. While the Kassebaum/Kennedy legislation will increase access to the health insurance market for many people, there are still too many low-income working families in this country who are unable to afford coverage even though it may be more readily available to them.

According to a 1994 GAO report, 14.2 percent of all children are uninsured, the highest rate in any industrialized country. In Louisiana alone there are 254,952 children without health insurance. Nine out of ten of these children live in families with working parents. These parents go to work every day to earn a living and provide for their families. Some might say that providing for one's family should include health insurance but when you've got food to buy and rent to pay, health insurance to many parents is an unaffordable luxury. Perhaps even more troubling is that the number of uninsured children is expected to grow as employers continue to cut back on dependant coverage, leaving many working parents unable to afford insurance for their families. While Medicaid has picked up some of these children and will continue to do so, these expansions won't be enough to completely offset the loss in private coverage in this country.

Mr. President, an important lesson we have learned in recent years is that big government mandates won't work. But I believe expanding coverage of children is a necessary next step to follow up on the significant progress we made last year. We should build on the momentum from Kassebaum/Kennedy bill to help low-income working families buy health insurance they need for their children. Basic primary and preventive care services that insurance provides are critical to a child's healthy development, and like all kinds of preventive care, it's cheaper than treating a child once he or she gets sick. As we all know, uninsured children are more likely to get care in an emergency room at later stages in their illness and are more likely to require an expensive hospital stay.

This bill is a market-based plan that will provide tax credits to help working families buy the health insurance they need. Our goal is to stimulate a competitive market for children's health plans which are relatively inexpensive but have a big economic payoff. I am hopeful that Democrats and Republicans will be able to work together on this issue because it's in everyone's interest that our nation's children have the health care and health insurance they need since they are the future of this country. For the future of a healthy America, we need healthy kids now.

Ms. MIKULSKI. Mr. President, I am honored to join the Senate Minority Leader in cosponsoring the Children's Health Coverage Act of 1997. This bill will help uninsured working families purchase health insurance for their children and will build on the success of last year's Kassebaum-Kennedy health care reform legislation. It makes the health of all America's children a national priority. It takes the Democratic health care agenda one more step.

Our country has failed to meet the health care needs of America's children. The United States has the highest rate of uninsured children of any industrialized country. In my home State of Maryland, nearly 1 in 5 children is uninsured. That's almost 200,000 kids in Maryland alone. This is a disgrace for a country as bountiful as ours is. We say children are our priority. We need to put in the lawbooks the values we hold in our hearts. That makes good policy and good sense.

These are the children of working families. Their parents may both be working 40-hour a week jobs. Jobs that put them over the poverty level but offer no benefits. This problem is pervasive. Nine out of ten children without insurance live in families with

working parents. Two thirds of uninsured children live in families with incomes above the poverty line. The problem cuts across class and race.

As I travel through my own State, working parents tell me how they worry about their children not having health insurance. They are afraid that they won't be able to take them to the doctor when they get really sick. With this bill, American parents won't have to fear for their children. This legislation meets the peace of mind test.

I want to make sure children's health care needs are met comprehensively and equitably. This bill stands up and challenges what is wrong with our health care system. It affirms our need to develop human capital as well as economic capital. It's about getting our priorities straight and putting families first. I salute the Minority Leader for moving this important issue forward.

Ms. MOSELEY-BRAUN. Mr. President, I rise today to offer my support as an original cosponsor of the Children's Health Coverage Act of 1997—S. 13. Vice President Hubert Humphrey may have summed it up best when he concluded that ''the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy, and the handicapped.''

Well, Mr. President, the Children's Health Coverage Act is our test for the 105th Congress and how this Congress will respond to the need to care for our children, who are in the dawn of their life; 10.5 million children have no health insurance coverage. The GAO conclusion that children without insurance are less likely to grow up to be healthy, and productive adults may be the most telling fact. If we know the effect being uninsured has on our children's ability to contribute to society, how can we not respond?

The ultimate guarantee of our children's health would be to make comprehensive health insurance coverage more readily available either through a private or public source. In the interim however, the Children's Health Coverage Act will make a number of important steps to improve the health of our children. First, enhancing health coverage for pregnant women will make our children healthy on the front-end through enhanced prenatal care. In 1993, almost 200,000 children were born to women who received either no prenatal care or prenatal care after the first trimester of their pregnancy. Good prenatal care can reduce rates of low-weight births and infant mortality, thus preventing avoidable disabilities.

Next, the Children's Health Coverage Act will not erode existing health coverage for children. Children are losing private health insurance coverage faster than any other group. In many cases, Medicaid has been the safety-net preventing children from becoming uninsured. S. 13 will stimulate the market for private children's health coverage and deter employers from dropping their contributions toward the coverage of their employees.

Finally, the Children's Health Coverage Act makes the next logical step from the improvements made in the Kennedy-Kassebaum health care bill, by tackling the issue of insurance affordability. The right to buy insurance that you cannot afford really is not access at all. Millions of Americans were given more flexibility by making insurance more portable and ending ''job lock.'' However, if the ability to pay your premiums severely restricts the options, have we truly ended ''job lock.''

Mr. President, caring for our children is critical to the success and the survival of this nation. However, we must not be content with only meeting the physiological needs of our children. We must also adopt a holistic approach to meeting the needs of our children. A significant number of our children have special health care needs. There are also many children who have special educational, financial, and social needs.

During the ''Stand for Children'' rally in June of last year, five core principles were espoused that are essential to safeguarding our children. These principles are to give our children a Head start, a fair start, a safe start, a moral start, and a healthy start. These are fundamental principles that should govern our nation's agenda towards children. The Children's Health Coverage Act is a very good step toward ensuring a healthy start for our children. I hope that my colleagues can join me in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 13

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 ''Children's Health Coverage Act''.

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

SEC. 2. DEFINITIONS.

As used in this Act:

(1) CERTIFIED HEALTH PLAN.—The term ''certified health plan'' means a health plan that—

(A) is not an employer sponsored health plan;

(B) provides family coverage or child only coverage options; and

(C) is certified by a State under section 101(b)(1).

(2) ELIGIBLE CHILD.—The term ''eligible child'' means an individual who has not attained the age of 19.

(3) HEALTH INSURANCE ISSUER.—The term ''health insurance issuer'' means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974).

(4) HEALTH MAINTENANCE ORGANIZATION.—The term ''health maintenance organization'' means—

(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

(5) POVERTY LINE.—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) applicable to a family of the size involved.

(6) PREMIUM SUBSIDY ELIGIBLE CHILD.—The term ''premium subsidy eligible child'' means any individual who—

(A) is an eligible child who was born after December 31, 1984;

(B) is a citizen or qualified alien (as defined in section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b));

(C) has a family income determined under section 102(b) which does not exceed 300 percent of the poverty line or has a family income within the limits described in section 103(b)(2);

(D) is not eligible for assistance under a program under title XIX of the Social Security Act or, except as provided in section 102(e), under a similar State program providing health insurance or other health care coverage; and

(E)(i) except as provided in section 101(e) or clause (ii), has not been covered, during the 12-month period ending on the date on which the individual applies for subsidy-eligible health coverage under this title, under a health plan offered by a health insurance issuer (unless such plan was funded under title

IX of the Social Security Act (42 U.S.C. 1101 et seq.)) and—

(I) such individual does not have access to employer sponsored health coverage; or

(II) the employer of the individual or family involved offers employer sponsored health coverage and the employer contribution for such 12-month period does not exceed—

(aa) in the case of an individual (or family) described in section 103(a)(2)(A), 80 percent or more of the costs of enrollment in the plan; or

(bb) in the case of an individual (or family) described in section 103(a)(2)(B), 50 percent or more of the costs of enrollment in the plan; or

(ii) is, as of the date of enactment of this Act, covered under a health plan that is not a group health plan (as defined in section 2791 of the Public Health Service Act), and the family of such individual is not eligible to claim a deduction under section 162(l) of the Internal Revenue Code of 1986.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(8) SUBSIDY ELIGIBLE HEALTH COVERAGE.—The term ''subsidy eligible health coverage'' means health insurance coverage under—

(A) a certified health plan; or

(B) an employer sponsored health plan providing family coverage or child-only coverage options;

for which a subsidy is available under this title.

TITLE I—HEALTH INSURANCE COVERAGE FOR ELIGIBLE CHILDREN

SEC. 101. ESTABLISHMENT OF PROGRAM TO PROVIDE ELIGIBLE CHILDREN WITH ACCESS TO HEALTH INSURANCE COVERAGE.

(a) ESTABLISHMENT.—The Secretary shall establish a program under which a premium subsidy eligible child, and the family of such child, may receive a subsidy to be used to pay a portion of the premium associated with the enrollment of the child for subsidy eligible health coverage under a certified health plan or employer sponsored health plan.

(b) STATE RESPONSIBILITIES.—Under the program established under subsection (a)—

(1) the insurance commissioner of a State may certify a health plan if the commissioner determines that—

(A) the health plan—

(i) provides family or child-only coverage;

(ii) meets general coverage guidelines that are established by the Secretary and designed to ensure that the plan provides comprehensive coverage, including preventive, basic, and catastrophic benefits that meet the health care needs of children (either as part of a family plan or a child-only plan);

(B) the average premium for the enrollment of a child under such plan is reasonable when taking into consideration the demographic and health status related factors of the population for which the plan will be marketed;

(C) each premium subsidy eligible child that is enrolled under the plan will be assessed the same premium;

(D) the plan provides for guaranteed issue with respect to premium subsidy eligible children;

(E) complies with the provisions of section 104 regarding preexisting condition exclusions;

(F) the health insurance issuer involved is participating in any applicable reinsurance program that has been established by the State to defray the costs of unevenly distributed risk among issuers; and

(G) the plan meets any other criteria established by the State;

(2) the insurance commissioner of the State shall provide information on the availability of certified health plans and the availability of subsidies in accordance with this title;

(3) the appropriate State entity (as determined by the Chief Executive Officer of the State) shall conduct income verification and reconciliation activities with respect to eligible children and families desiring to participate in the program in the State and issue certificates in accordance with section 102;

(4) the appropriate State entity (as determined under paragraph (4)) shall be responsible for the collection of premiums from premium subsidy eligible children and the forwarding of such premiums to the appropriate certified health plans;

(5) the State (through its own authority or acting in conjunction with the Secretary under subsection (f)(3)) shall ensure that each eligible child in the State has a reasonable choice of health insurance issuers that offer child-only coverage consistent with the standards developed by the Secretary under this title;

(6) the State will establish any other requirements and procedures necessary to carry out this title within the State; and

(7) the State shall comply with any other requirements established by the Secretary.

(c) PARTICIPATION OF ISSUERS.—

(1) IN GENERAL.—Any health plan may submit an application with the appropriate State insurance commissioner for certification under this section and such plan shall be certified if it meets the requirements of subsection (b)(1). Employer-sponsored health plans shall not be required to be certified under this title.

(2) REQUIREMENT FOR FEDERAL CONTRACTORS.—

(A) IN GENERAL.—Each health insurance issuer that provides health coverage under contract with any Federal program and that offers 1 or more health plans that provide family coverage options shall submit an application, with the appropriate State insurance commissioner, for the certification of 1 or more health plans that provide the children's only coverage described in subsection (b)(1)(A). Such an issuer shall apply for the certification of at least 1 health plan that provides child-only coverage, and may apply for the certification of 1 or more health plans that provide family coverage if such plans provides coverage for children as described in subsection (b)(1)(A).

(B) PENALTY.—A health insurance issuer shall be ineligible to provide benefits under a Federal contract described in subparagraph (A) if—

(i) the issuer fails, in good faith, to submit an application as required under subparagraph (A);

(ii) the State insurance commissioner fails to certify a health plan of the issuer as meeting the requirements of this title; or

(iii) the issuer fails to make any modifications to the application or to a health plan as requested by the State insurance commissioner for the certification of a health plan.

(C) PARTICIPATION IN INDIVIDUAL MARKET.—Notwithstanding subparagraph (A), a health insurance issuer described in such subparagraph shall not be required to offer coverage in the individual market (as defined in section 2791(e)(1)) unless the issuer is otherwise participating in such market. Such an issuer shall be required to offer coverage to eligible children under this title through the participation of the issuer in all group purchasing arrangements operating in the area served by the issuer, except that with respect to employer-sponsored health plans, the obligation of an issuer to offer child-only coverage shall be limited to employers to which such issuers are otherwise offering coverage.

(3) EXPEDITED PROCEDURES.—The State insurance commissioner of a State shall establish expedited procedures for the certification of health plans that have been offered in the insurance market in the State during the 1-year period preceding the date on which a certification is sought.

(4) OFFERING OF COVERAGE.—A health insurance issuer shall offer certified health plans to each eligible child residing in the area served by the issuer regardless of the family income of such child. Coverage provided under such plans may vary in accordance with this Act depending on whether the enrollee is an eligible child or a premium subsidy eligible child. Such coverage may be offered through insurance agents or brokers.

(d) AVERAGE COVERAGE AMOUNT.—

(1) DETERMINATION.—The Secretary, in consultation with State insurance commissioners and other experts in the field of health insurance, shall determine the average coverage amount with respect to certified health plans. The amount shall be based on the average costs of comprehensive health insurance coverage for children as determined using data derived from existing State initiatives that have been established to provide health care coverage for uninsured children and data on the average market rates for health plans offering coverage reasonably similar to that of the coverage offered under certified health plans.

(2) ADJUSTMENTS.—The Secretary shall annually adjust the average coverage amount determined under paragraph (1) to ensure that such amount accurately reflects the reasonable costs associated with the purchase of coverage under a certified health plan and regional variations in health care costs.

(3) APPLICATION OF AMOUNT TO CHILD PORTION OF PLAN.—In establishing and applying the average coverage amount under paragraph (1), the Secretary shall ensure that the amount relates solely to the comprehensive coverage applicable to the premium subsidy eligible child. If coverage of a premium subsidy eligible child is under a certified family plan, the average coverage amount shall relate solely to that portion of the plan that provides the coverage for the eligible child.

(e) WAIVER OF PREVIOUS COVERAGE LIMITATION.—

(1) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process to waive the limitation described in section 2(6)(D) with respect to an individual if the Secretary determines that the individual was covered under a health plan during the period referred to in such section as a dependent of another individual and that the coverage was terminated involuntarily or the loss of coverage results from a change in employment.

(2) LIMITATION.—The process established under paragraph (1) shall not permit a waiver with respect to previous coverage that was terminated by an employer (or with respect to which the contribution of the employer toward such coverage was reduced) unless the Secretary determines that such coverage was terminated because the employer ceased its operations or because of other circumstances clearly unrelated to the availability of subsidies under this title.

(f) PROVISION OF TECHNICAL ASSISTANCE BY SECRETARY.—

(1) ALTERNATIVE PROCEDURES.—The Secretary, at the request of and in conjunction with the insurance commissioner of a State, shall assist the State in establishing alternative rate review and approval procedures that apply to the health plans seeking certification under this section. Any procedures established under this paragraph shall be

consistent with the goals and requirements of this title.

(2) STRATEGIES TO IMPROVE INSURANCE MARKET.—

(A) IN GENERAL.—The Secretary, at the request of and in conjunction with a State, shall develop and pursue strategies to encourage competition, prevent fraudulent practices, ensure the adequacy of rates to prevent access barriers, and achieve goals consistent with this title with respect to the health insurance market in the State. Such strategies may include the establishment of commercial insurance pooling arrangements that may be used by small businesses and integrated with other purchasing pools, the implementation of competitive bidding mechanisms, and the coordination of insurance delivery systems with delivery systems under title XIX of the Social Security Act.

(B) TERMINATION.—The Secretary may require that a State terminate or revise a strategy implemented by the State under paragraph (1) if the Secretary determines that the strategy conflicts with a provision of this title.

(3) CHOICE OF ISSUERS.—The Secretary, at the request of and in conjunction with a State, shall assist the State in identifying and implementing strategies to ensure that choice is provided to eligible children in accordance with subsection (b)(5). Such strategies may include the strategies described in paragraph (2)(A).

(g) PROCEDURES TO IDENTIFY THOSE ELIGIBLE FOR MEDICAID.—In carrying out the program under this title, the Secretary shall establish procedures to identify premium subsidy eligible children whose enrollment in a certified health plan is subsidized under this title and who subsequently become eligible for assistance under a State plan under title XIX of the Social Security Act as a result of disability, the amount of health care costs, or similar factors. Such procedures, while ensuring the continuity and coordination of care, shall ensure that assistance under such title XIX is the primary payer for children eligible for such assistance.

SEC. 102. PROCEDURE FOR OBTAINING COVERAGE UNDER CERTIFIED HEALTH PLANS.

(a) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a subsidy for the purchase of coverage under a certified health plan under this title, a family on behalf of a premium subsidy eligible child shall submit to the State entity designated under section 101(b)(4) an application that shall contain such income and employment information as the State determines necessary to make a determination with respect to the eligibility of such applicant for a subsidy under this title.

(2) TIME FOR FILING.—A family on behalf of a premium subsidy eligible child may file an application for a subsidy under this title at any time in accordance with this subsection.

(3) USE OF SIMPLE FORM.—For purposes of this subsection, the State entity shall use an application that shall be as simple in form as possible and understandable to the average individual. The application may require attachment of such documentation as deemed necessary by the State in order to ensure eligibility for a subsidy.

(4) AVAILABILITY OF FORMS.—The State entity shall make an application form available through health care providers and participating issuers, public assistance offices, public libraries, and at other locations (including post offices) accessible to a broad cross-section of families.

(b) ISSUANCE OF CERTIFICATE.—

(1) IN GENERAL.—

(A) NOTIFICATION OF APPLICANT.—If the State entity described in subsection (a) determines that an applicant is eligible for a subsidy under this title, the entity shall notify the applicant of such eligibility and request that the applicant designate a certified health plan that the applicant desires to enroll in.

(B) NOTIFICATION OF PLAN.—Upon a designation under subparagraph (A), the entity shall forward a certificate of eligibility on behalf of the applicant to the designated plan. Such certificate shall contain identifying information concerning the applicant and the eligible child involved and the amount of the subsidy for which the applicant is eligible.

(2) DETERMINATION BY STATE.—As elected by a family at the time of the submission of an application under subsection (a), the State entity shall make a determination concerning family income either—

(A) by multiplying by a factor of 4 the income of the family for the 3-month period immediately preceding the month in which the application is made, or

(B) based upon estimated income for the entire year in which the application is submitted.

(3) TERM.—A certificate under paragraph (1) shall remain in effect for the 6-month period beginning on the date of the issuance of the certificate. To continue to be eligible for a subsidy, a family must apply to renew the certificate at the end of each 6-month period.

(c) ENROLLMENT.—Upon receipt of a certificate of eligibility under subsection (b), a certified health plan shall ensure that the eligible child involved is appropriately enrolled and that a copy of the enrollment and coverage materials are provided to the enrollee. With respect to the certified health plan involved, the plan shall use the certificate in accordance with section 103 to compute the amount of the premiums that are owed by the family involved.

(d) PAYMENT OF PREMIUMS.—

(1) IN GENERAL.—Upon receipt of the appropriate enrollment materials from a certified health plan under subsection (c), a premium subsidy eligible child, the family income of which does not exceed the limit described in section 103(a)(2)(B)(i), shall be responsible for remitting to the State entity described in subsection (a) the amount of the subsidy adjusted premium owed under such plan.

(2) SUBSIDY ADJUSTED PREMIUM.—As used in paragraph (1), the term ''subsidy adjusted premium'' means the total amount of the premium assessed for the coverage of a premium subsidy eligible child under a certified health plan less the amount of the subsidy adjustment for which the child is eligible under section 103.

(3) PAYMENT OF ISSUER.—A State shall, under section 101(b)(4), establish procedures for the collection of premiums under this subsection and the payment of such premiums to the appropriate certified health plans.

(e) COVERAGE UNDER CERTAIN STATE PROGRAMS.—

(1) COORDINATION OF PROGRAMS.—The Secretary, in conjunction with States, shall provide for the coordination of the program established under this title with State programs that provide health insurance or other health care coverage for children. Such coordination may include the use of subsidies made available under this title to obtain coverage that supplements any partial coverage provided through such a State program or other coordinated arrangement.

(2) ELIGIBILITY.—With respect to an eligible child who is participating in a State program described in paragraph (1), a State may, notwithstanding section 2(6)(D), determine that such child is a premium subsidy eligible child.

(3) ADJUSTMENT OF AVERAGE COVERAGE AMOUNT.—The Secretary shall adjust the average coverage amount under section 101(d) with respect to an eligible child who is determined to be a premium subsidy eligible child under paragraph (2) to reflect the cost of enrolling the child in any plan providing supplemental coverage as described in paragraph (1).

SEC. 103. SUBSIDY ADJUSTMENT.

(a) PREMIUM SUBSIDY ELIGIBLE CHILDREN.—

(1) ELIGIBILITY.—An eligible child who has been determined by a State entity under section 102(b) to be a premium subsidy eligible child shall be eligible for a premium subsidy adjustment in the amount determined under paragraph (2) to be applied by the certified plan involved when computing the amount of the premium owed by such child.

(2) AMOUNT.—

(A) FULL SUBSIDY.—

(i) IN GENERAL.—With respect to a family, the family income of which does not exceed 200 percent of the poverty line for a family of the size involved, the amount of a premium subsidy adjustment specified in this paragraph for a premium subsidy eligible child shall, subject to clause (ii), be equal to 90 percent of the annual premium for the child for such year for coverage of the child under a certified health plan.

(ii) LIMITATION.—The amount of a subsidy adjustment for which a premium subsidy eligible child is eligible under clause (i) may not exceed the average coverage amount for the child as determined under section 101(d) with respect to the region in which the plan is offered.

(B) GRADUATED SUBSIDY.—

(i) IN GENERAL.—With respect to a family, the family income of which exceeds 200, but does not exceed 300, percent of the poverty line for a family of the size involved, the amount of a premium subsidy adjustment specified in this paragraph for a premium subsidy eligible child shall be determined by substituting ''the applicable percentage'' for ''90 percent'' in subparagraph (A).

(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term ''applicable percentage'' shall be determined using the following table:

"If the family income:	The applicable percentage shall be:
Exceeds 200, but does not exceed 225, percent of poverty	80
Exceeds 225, but does not exceed 250, percent of poverty	60
Exceeds 250, but does not exceed 275, percent of poverty	40
Exceeds 275, but does not exceed 300, percent of poverty	20
Exceeds 300 percent of poverty (subject to subsection (b)(2))	10

(b) OTHER ELIGIBLE CHILDREN.—

(1) IN GENERAL.—A premium subsidy eligible child who is determined by the State to be a child described in paragraph (2), shall be eligible for a premium subsidy adjustment in the amount determined under paragraph (3) to be obtained through a refundable tax credit determined under section 34A of the Internal Revenue Code of 1986.

(2) INCOME LIMITATION.—A premium subsidy eligible child described in this paragraph is a premium subsidy eligible child the family income of which exceeds 300 percent of the poverty line for a family of the size involved, but the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of which is less than $75,000.

(3) AMOUNT.—

(A) IN GENERAL.—A premium subsidy eligible child described in paragraph (2) shall be

eligible for a premium subsidy adjustment which shall, subject to subparagraph (B), be equal to 10 percent of the annual premium for the child for such year for coverage of the child under a certified health plan.

(B) LIMITATION.—The amount of a subsidy adjustment for which a premium subsidy eligible child is eligible under subparagraph clause (A) may not exceed the average coverage amount for the child as determined under section 101(d) with respect to the region in which the plan is offered.

(4) PURCHASE OF COVERAGE BY THOSE NOT ELIGIBLE FOR SUBSIDY.—An eligible child who is not a premium subsidy eligible child and who enrolls in a certified health plan shall be responsible for the payment of the entire premium amount for coverage under the plan. Such certified plan shall comply with the applicable State insurance requirements and if such requirements permit, may elect not to comply with the provisions of subparagraphs (D) (relating to guaranteed issue) and (E) (relating to preexisting condition exclusion) of section 101(b)(1).

(c) DETERMINATIONS OF INCOME.—For purposes of this section and section 102(b):

(1) IN GENERAL.—The term ''income'' means adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986)—

(A) determined without regard to sections 135, 162(l), 911, 931, and 933 of such Code; and

(B) increased by—

(i) the amount of interest received or accrued which is exempt from tax, plus

(ii) the amount of social security benefits (described in section 86(d) of such Code) which is not includible in gross income under section 86 of such Code.

(2) FAMILY INCOME.—The term ''family income'' means, with respect to a family, the sum of the income for all members of the family, not including the income of a dependent child with respect to which no return is required under the Internal Revenue Code of 1986.

(d) PROHIBITION ON REMITTING FUNDS.—A health insurance issuer may not in any manner remit any portion of the premium that a family is responsible for under this title.

SEC. 104. LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD AND –PROHIBITION ON DISCRIMINATION.

(a) PREEXISTING CONDITIONS.—

(1) IN GENERAL.—No preexisting condition exclusion shall be imposed by a certified health plan or an employer-sponsored health plan, with respect to the enrollment and coverage of any premium subsidy eligible child.

(2) DEFINITION.—As used in this subsection, the term ''preexisting condition exclusion'' shall have the meaning given such term by section 2701(b)(1) of the Public Health Service Act (as added by section 102 of the Health Insurance Portability and Accountability Act of 1996).

(b) PROHIBITION OF DISCRIMINATION ON BASIS OF HEALTH STATUS.—

(1) IN ELIGIBILITY TO ENROLL.—

(A) IN GENERAL.—Subject to subparagraph (B), a health insurance issuer may not establish rules for eligibility (including continued eligibility) of any premium subsidy eligible child to enroll in a certified health plan or employer-sponsored health plan based on any of the following factors in relation to the premium subsidy eligible child:

(i) Health status.

(ii) Medical condition (including both physical and mental illnesses).

(iii) Claims experience.

(iv) Receipt of health care.

(v) Medical history.

(vi) Genetic information.

(vii) Evidence of insurability (including conditions arising out of acts of domestic violence).

(viii) Disability.

(B) NO APPLICATION TO BENEFITS OR EXCLUSIONS.—Subparagraph (A) shall not be construed—

(i) to require a certified health plan or employer-sponsored health plan to provide particular benefits other than those provided under the terms of the coverage, or

(ii) to prevent such plan from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated children enrolled in the plan.

(2) IN PREMIUM CONTRIBUTIONS.—

(A) IN GENERAL.—With respect to a certified health plan or employer-sponsored health plan, a health insurance issuer may not require that any premium subsidy eligible child (as a condition of enrollment or continued enrollment under the certified or employer-sponsored health plan involved) to pay a premium or contribution that is greater than such premium or contribution for a similarly situated child enrolled in the plan on the basis of any factor described in paragraph (1)(A) in relation to the child.

(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed—

(i) to restrict the amount that an employer may be charged for coverage under a plan; or

(ii) to prevent a health insurance issuer from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(c) EMPLOYER MAY NOT DISCRIMINATE AGAINST INDIVIDUALS ELIGIBLE FOR A SUBSIDY.—

(1) GENERAL RULE.—An employer that elects to make employer contributions on behalf of an individual who is an employee of such employer, or who is a dependent of such employee, for health insurance coverage of the type described in section 101(b)(1)(A) shall not condition, or vary such contributions with respect to any such individual by reason of such individual's or dependent's status as an child eligible for a premium subsidy under this title.

(2) ELIMINATION OF CONTRIBUTIONS.—An employer shall not be treated as failing to meet the requirements of paragraph (1) if the employer ceases to make employer contributions for health insurance coverage for all its employees.

SEC. 105. MAINTENANCE OF EFFORT.

A State may not modify the eligibility requirements for children under the State program under title XIX of the Social Security Act, as in effect on July 1, 1996, in any manner that would have the effect of reducing the eligibility of children for coverage under such program.

SEC. 106. OVERSIGHT BY SECRETARY.

In the case of a determination by the Secretary that a State has failed to carry out or substantially enforce a provision (or provisions) of this title, the Secretary shall carry out or enforce such provision (or provisions) with respect to the coverage of eligible children in such State.

SEC. 107. RULES OF CONSTRUCTION.

Nothing in this title shall be construed—

(1) as establishing premiums for health plans or otherwise limiting the competitive health insurance market within a State;

(2) as limiting the ability of a State to establish health insurance purchasing pools, initiate a competitive bidding process with respect to certified health plans, or pursue other innovative strategies aimed at maximizing the potential of market forces to achieve quality and cost effectiveness; or

(3) as superseding any provision of State law which—

(A) provides for the application of criteria, in addition to those described in section 101(b)(1), for the certification of health plans so long as such criteria do not directly conflict with the goals of the criteria described in such section; or

(B) establishes, implements, or continues in effect any standard or requirement relating solely to health insurance issuers in connection with certified health plans or the coverage of eligible children, except to the extent that such standard or requirement prevents the application of a requirement of this title.

SEC. 108. MISCELLANEOUS PROVISIONS.

(a) TRANSITION RULE.—With respect to the 12-month period described in section 2(6)(E), such period shall be reduced as follows:

(1) For premium subsidy eligible children desiring to enroll in a certified plan during the first full month after the date on which this Act becomes effective, the period shall be 6 months.

(2) For premium subsidy eligible children desiring to enroll in a certified plan during the second full month after the date on which this Act becomes effective, the period shall be 7 months.

(3) For premium subsidy eligible children desiring to enroll in a certified plan during the third full month after the date on which this Act becomes effective, the period shall be 8 months.

(4) For premium subsidy eligible children desiring to enroll in a certified plan during the fourth full month after the date on which this Act becomes effective, the period shall be 9 months.

(5) For premium subsidy eligible children desiring to enroll in a certified plan during the fifth full month after the day on which this Act becomes effective, the period shall be 10 months.

(6) For premium subsidy eligible children desiring to enroll in a certified plan during the sixth full month after the day on which this Act becomes effective, the period shall be 11 months.

TITLE II—HEALTH INSURANCE COVERAGE FOR PREGNANT WOMEN

SEC. 201. EXPANDING HEALTH INSURANCE COVERAGE FOR PREGNANT WOMEN.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary shall establish a program to provide grants to States to enable such States to assist pregnant women in obtaining appropriate prenatal, perinatal and postnatal care.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amount available for grants under subsection (e) for a fiscal year, the Secretary shall award a grant to each State in an amount that is equal to an amount which bears the same relationship to such amount as the pregnancy coverage amount of the State as determined under paragraph (2) bears to the pregnancy coverage amount for all States.

(2) PREGNANCY COVERAGE AMOUNT.—For purposes of paragraph (1), the pregnancy coverage amount of a State shall be equal to—

(A) the number of estimated uninsured pregnant women in the State the family income of which does not exceed 300 percent of the poverty line for a family of the size involved; and

(B) the average per capita cost of providing pregnancy benefits to such women.

(3) GUIDELINES.—The Secretary, in consultation with the National Association of Insurance Commissioners and the American Academy of Actuaries, shall establish guidelines for the determination of the amounts

described in subparagraphs (A) and (B) of paragraph (2).

(d) USE OF AMOUNTS.—A State shall use amounts received under a grant provided under this section to assist pregnant women in obtaining appropriate prenatal, perinatal and postnatal care as approved by the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 202. GRANTS FOR INNOVATIVE OUTREACH.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary shall establish a program to provide categorical grants to States to assist children and pregnant women in obtaining health care services and coverage for which they are eligible.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant provided under this section.

(d) USE OF AMOUNTS.—A State shall use amounts received under a grant provided under this section to carry out innovative outreach activities to promote the timely enrollment of pregnant women and children in health plans or other programs that provide prenatal care and other pregnancy-related services or comprehensive care for children.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE III—CHILDREN'S HEALTH COVERAGE SUBSIDY CREDITS

SEC. 301. HEALTH COVERAGE PROVIDED TO PREMIUM SUBSIDY ELIGIBLE CHILDREN THROUGH A TAX CREDIT FOR INSURERS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following:

"SEC. 30B. CHILDREN'S HEALTH COVERAGE SUBSIDY CREDIT FOR INSURERS.

''(a) DETERMINATION OF AMOUNT.—There shall be allowed as a credit against the applicable tax for the taxable year an amount equal to the eligible premium subsidies provided by a health insurance issuer for coverage under 1 or more certified health plans during the taxable year under the Children's Health Coverage Act.

''(b) APPLICABLE TAX.—For purposes of this section, the term 'applicable tax' means the excess (if any) of—

''(1) the sum of—

''(A) the tax imposed under this chapter (other than the taxes imposed under the provisions described in subparagraphs (C) through (O) of section 26(b)(1)), plus

''(B) the tax imposed under chapter 21, over

''(2) the credits allowable under subparts B and D of this part.

''(c) ELIGIBLE PREMIUM SUBSIDIES.—The term ''eligible premium subsidies' means premium subsidies for premium subsidy eligible children (as defined in section 2(6) of the Children's Health Coverage Act.

''(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'health insurance issuer' and 'certified health plan' have the meaning given those terms by section 2 of the Children's Health Coverage Act.''.

(b) TRANSFER TO TRUST FUNDS.—The Secretary of the Treasury shall transfer from the general fund to the Old-Age, Survivors, and Disability Insurance Trust Fund and to the Hospital Insurance Trust Fund amounts equivalent to the amount of the reduction in taxes imposed by section 3111 of the Internal Revenue Code of 1986 by reason of the credit determined under section 30B (relating to the children's health coverage subsidy credit for insurers). Any such transfer shall be made at the same time the reduced taxes would have been deposited in either such Trust Fund.

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 30B. Children's health coverage subsidy credit for insurers.''.

(e) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1997.

SEC. 302. HEALTH COVERAGE PROVIDED TO PREMIUM SUBSIDY ELIGIBLE CHILDREN THROUGH A REFUNDABLE INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by inserting after section 34 the following:

"SEC. 34A. CHILDREN'S HEALTH COVERAGE.

''(a) ALLOWANCE OF CREDIT.—In the case of a premium subsidy eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the premium subsidy determined under section 103(b)(3) of the Children's Health Coverage Act for such individual for the taxable year.

''(b) PREMIUM SUBSIDY ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'premium subsidy eligible individual' means, with respect to any period, an individual who has as a dependent for the taxable year 1 or more premium subsidy eligible children described in section 103(b)(2) of the Children's Health Coverage Act.

''(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) COORDINATION WITH DEDUCTIONS FOR HEALTH INSURANCE EXPENSES.—

(1) SELF-EMPLOYED INDIVIDUALS.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by adding after paragraph (5) the following:

''(6) COORDINATION WITH CHILDREN'S HEALTH COVERAGE CREDIT.—Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 34A.''.

(2) MEDICAL, DENTAL, ETC., EXPENSES.—Section 213(e) of such Code (relating to exclusion of amounts allowed for care of certain dependents) is amended by inserting ''or section 34A'' after ''section 21''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 34 the following:

''Sec. 34A. Children's health coverage.''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1997.

By Mr. DASCHLE (for himself, Mrs. BOXER, Mr. KENNEDY, Mr. BINGAMAN, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Mr. GRAHAM, Ms. MIKULSKI, Mr. KERRY, Mr. REID, Mr. DURBIN, Mr. INOUYE, Mr. TORRICELLI, and Mr. BREAUX):

S. 14. A bill to provide for retirement savings and security, and for other purposes; to the Committee on Finance.

RETIREMENT SECURITY ACT OF 1997

Mr. KENNEDY. Mr. President, today I join with the distinguished Minority Leader, Senator DASCHLE, in co-sponsoring legislation important for the future of working families in this country. One of this Congress's highest priorities should be pension reform.

The Treasury now spends $66 billion a year in tax subsidies to encourage pension coverage, but working families are not getting full value for this money. 56 percent of the workforce is not currently covered by any private pension plan. The situation is worse for employees of small businesses. Eighty-five percent of those employed by firms with fewer than 25 workers have no pension coverage. For low-wage workers, the situation is worst of all. More than 26 million employees—80 percent—who earn under $15,000 a year are not covered by a pension plan. Forty-one million employees who earn less than $30,000 a year do not participate in a retirement plan—60 percent.

Women make up an excessive portion of the working population that is not covered by a pension plan. Employees covered by union agreements are nearly twice as likely to have a pension, but women are half as likely to hold these jobs. More than eight million women who work for small firms have no access to pension coverage.

Low-wage women are especially hard-hit. Sixty percent of those earning under $15,000 a year are women. Nearly sixteen million women who earn less than $15,000 a year are not participating in a pension plan—80 percent. Twenty-three million women earning less than $30,000 a year don't participate in a retirement plan—nearly 60 percent.

Women are more than twice as likely as men to hold part-time jobs, with no pension coverage. Women make up more than half the workforce in industries with the lowest rates of pension coverage—such as the service and retail industries. In those industries with higher rates of access to pensions—mining, durable manufacturing, and communications—women make up just one-fourth of the workforce.

We must change these figures. I am proud to join in sponsoring the Retirement Security Act that Senator DASCHLE is introducing today to deal with these serious problems.

This bill will make real progress in expanding access to pensions for all working families. It will facilitate retirement savings by millions of Americans, by enabling workers to ask their employers to set aside savings from paychecks and deposit the savings directly into retirement accounts. This ''pension checkoff'' is a simple, practical step to make the private pension system more accessible to all workers.

The bill will also provide tax incentives for low-wage employees to set aside money for retirement. Families

on the lower rungs of the economic ladder deserve a secure income when they retire. This bill will reform the tax laws to make them more beneficial to low-income workers. No one who works for a living should have to retire in poverty.

The bill advances other important goals as well. It strengthens the security of the pension system, so that the benefits families rely on will be there when they retire. It will stop employers from forcing employees to invest their retirement contributions in the employer's stock, against the workers' wishes. It will provide closer monitoring of pension plan terminations, to prevent companies from raiding employee pensions.

The bill also promotes pension portability. The checkoff system will allow employees to continue saving for retirement even if they change jobs or leave the labor market for a time. Wherever they go, they can take their pension plan with them. In addition, the bill makes it easier for employees to roll over their retirement accounts to a new employer's plan.

The bill will remove the most significant obstacles to pension coverage for women. It builds on the efforts of Senator MOSELEY-BRAUN and Senator BOXER in the last Congress to improve pension benefits for surviving spouses. It will also enable spouses to contribute to IRAs. The pension checkoff system will benefit millions of working women whose employers do not provide pension plans.

I commend Senator DASCHLE for the leadership he has shown in introducing this important bill. At a time when Social Security is facing tremendous budget pressure, it is essential that the private pension system be accessible and affordable to every working family. I look forward to working with colleagues on both sides of the aisle to pass this necessary legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 14

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 ''Retirement Security Act of 1997''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—PENSION ACCESS AND COVERAGE

SEC. 100. 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.

Subtitle A—Improved Access to Individual Retirement Savings

CHAPTER 1—CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS THROUGH PAYROLL DEDUCTIONS

SEC. 101. DEFINITIONS.

For purposes of this chapter:

(1) CONTRACTOR.—The term ''contractor'' means the private entity awarded a contract by the Secretary of Labor under section 108.

(2) CONTRIBUTION CERTIFICATE.—The term ''contribution certificate'' means a certificate submitted by an eligible employee to the employee's employer and the contractor which—

(A) identifies the employee by name, address, and social security number,

(B) includes a certification by the employee that the employee is an eligible employee, and

(C) identifies the amount of the contribution to an individual retirement plan the employee wishes to make for the taxable year through a payroll deduction, not to exceed

the amount allowed under section 408 of the Internal Revenue Code of 1986 to an individual retirement plan for such year.

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term ''eligible employee'' means, with respect to any taxable year, an employee whose employer does not sponsor a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986.

(B) EMPLOYEE.—The term ''employee'' does not include an employee as defined in section 401(c)(1) of such Code.

(3) INDIVIDUAL RETIREMENT PLANS.—

(A) IN GENERAL.—The term ''individual retirement plan'' has the meaning given the term by section 7701(a)(37) of the Internal Revenue Code of 1986).

(B) APPLICATION OF RULES.—Rules applicable to an individual retirement plan under the Internal Revenue Code of 1986 are applicable to an individual retirement plan referred to in this chapter.

SEC. 102. ESTABLISHMENT OF PAYROLL DEDUCTION AND INVESTMENT SYSTEM.

The contractor shall establish a system under which—

(1) eligible employees, through employer payroll deductions, may make contributions to individual retirement plans, and

(2) amounts in the individual retirement plans are invested as provided in section 104.

SEC. 103. CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—The system established under section 102 shall provide that contributions made to an individual retirement plan for any taxable year are—

(1) contributions under an employer payroll deduction system, and

(2) additional contributions which, when added to contributions under paragraph (1), do not exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 for the taxable year.

(b) EMPLOYER PAYROLL DEDUCTION SYSTEMS.—

(1) IN GENERAL.—The system established under section 102 shall provide to the maximum extent feasible that contributions under employer payroll deduction systems are made in such a manner as provides all employers with a simple, cost-effective way of making such contributions.

(2) SIMPLIFIED EMPLOYEE ENROLLMENT AND PARTICIPATION.—

(A) ESTABLISHMENT.—An eligible employee may establish and maintain an individual retirement plan simply by—

(i) completing a contribution certificate, and

(ii) submitting such certificate to the eligible employee's employer and the contractor in the manner provided under paragraph (3).

(B) EASE OF ADMINISTRATION.—An eligible employee establishing and maintaining an individual retirement plan under subparagraph (A) may change the amount of an employer payroll deduction, request employer payroll deductions by new employers to an existing plan, and make changes in elections made under section 104(d) in the same manner as under subparagraph (A).

(C) SIMPLIFIED FORMS.—

(i) CONTRIBUTION CERTIFICATE.—The contractor shall develop a contribution certificate for purposes of subparagraph (A)—

(I) which is written in a clear and easily understandable manner, and

(II) the completion of which by an eligible employee will constitute the establishment of an individual retirement plan and the request for employer payroll deductions.

(ii) OTHER FORMS.—The contractor shall develop such model forms for purposes of subparagraph (B) as are necessary to enable the contractor and an employer to easily administer an individual retirement plan on behalf of an eligible employee.

(iii) AVAILABILITY.—The contractor shall make available to all eligible employees and employers the forms developed under this subparagraph, and shall include with such forms easy to understand explanatory materials.

(3) USE OF CERTIFICATE.—Each employer upon receipt of a contribution certificate from an eligible employee shall deduct the appropriate contribution as determined by such certificate from the employee's wages in equal amounts during the remaining payroll periods for the taxable year and shall remit such amounts to the contractor for investment in the employee's individual retirement plan.

(4) FAILURE TO REMIT PAYROLL DEDUCTIONS.—For purposes of the Internal Revenue Code of 1986, any amount which an employer fails to remit to the contractor on behalf of an eligible employee pursuant to a contribution certificate of such employee shall not be allowed as a deduction to the employer under such Code.

SEC. 104. INVESTMENT OPTIONS.

(a) IN GENERAL.—The contractor shall, pursuant to the system established under section 102, enter into arrangements, on a competitive basis, with qualified professional asset managers to provide individuals with the opportunity to invest sums in an individual retirement plan in each of the funds described in subsection (b).

(b) TYPE OF FUNDS.—The funds described in the subsection are the following:

(1) A government securities investment fund.

(2) A fixed income investment fund.

(3) A common stock index investment fund.

(c) ASSET MANAGERS.—

(1) IN GENERAL.—The contractor may select more than 1 qualified professional asset manager for each type of fund described in subsection (b).

(2) ASSET ALLOCATION.—The contractor may place limits on the amount which may be allocated by the contractor to any qualified professional asset manager to the extent the contractor determines necessary to prevent undue impact on any financial market or undue risk to participants.

(3) DEFINITION.—For purposes of this section, the term ''qualified professional asset manager'' has the meaning given the term by section 8438(a)(7) of title 5, United States Code.

(d) PARTICIPANT ELECTIONS.—

(1) IN GENERAL.—The system established under section 102 shall provide that an individual on whose behalf an individual retirement plan is established may—

(A) elect the investment funds into which contributions to the plan are to be invested, and

(B) elect to transfer contributions (and earnings) from one fund to another.

(2) METHOD.—Any election shall be made in the manner provided by the system, except that the contractor shall seek to ensure elections may be made in a simple, timely manner.

(3) LIMITATION.—Any election under this subsection shall be subject to the asset allocation limitation under subsection (c)(2).

(e) INVESTMENT POLICIES.—The system established under section 102 shall provide that any investment policies adopted by the contractor shall provide for—

(1) prudent investments suitable for accumulating funds for payment of retirement income, and

(2) low administrative costs.

SEC. 105. ACCOUNTING AND INFORMATION.

(a) ESTABLISHMENT OF PLANS.—

(1) IN GENERAL.—The system established under section 102 shall provide for the establishment and maintenance of an individual retirement plan for each individual—

(A) for whom contributions are made to the contractor under an employer payroll deduction system pursuant to a contribution certificate, and

(B) who makes any additional contributions allowed under section 408 of the Internal Revenue Code of 1986 for the taxable year.

(2) ALLOCATIONS AND REDUCTIONS TO PLAN.—Such system shall provide for—

(A) the allocation to each plan of an amount equal to a pro rata share of the net earnings and net losses from each investment of sums in such plan, and

(B) a reduction in each such plan for the plan's appropriate share of the administrative expenses to be paid out.

(3) EXAMINATION OF PLANS.—

(A) IN GENERAL.—The contractor shall annually engage, on behalf of all individuals for whom an individual retirement plan is maintained, an independent qualified public accountant (within the meaning of section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(D)) who shall conduct an examination of all plans and other books and records maintained in the administration of this chapter as the accountant considers necessary to make the determination under subparagraph (B). The examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the plans, books, and records as the public accountant considers necessary.

(B) DETERMINATION OF COMPLIANCE.—The public accountant conducting an examination under subparagraph (A) shall determine whether the plans, books, and records referred to in such subparagraph have been maintained in conformity with generally accepted accounting principles. The public accountant shall transmit to the contractor and the Secretary of Labor a report on such examination and determination.

(C) RELIANCE.—In making a determination under subparagraph (B), a public accountant may rely on the correctness of any actuarial matter certified by an enrolled actuary if the public accountant states a reliance in the report to the contractor.

(b) ADDITIONAL INFORMATION.—

(1) IN GENERAL.—The system established under section 102 shall provide for the furnishing of information to employees and employers of the opportunity of establishing individual retirement plans and of transferring amounts to such plans.

(2) PLAN PARTICIPANTS.—

(A) IN GENERAL.—Such system shall provide that each individual for whom an individual retirement plan is maintained shall be periodically furnished with—

(i) a statement relating to the individual's plan, and

(ii) a summary description of the investment options under the plan and a history of the investment performance of such options during the 5-year period preceding the evaluation.

(B) PLAN VALUATION.—Such system shall also provide that each individual for whom an individual retirement plan is established shall be entitled, upon request, to a periodic valuation of amounts in each fund described in section 104(b) in order to enable the individual to make an election to transfer such amounts between funds.

(3) INVESTMENT INFORMATION.—The contractor shall also make available to employees information on how to make informed investment decisions and how to achieve retirement objectives.

(4) INFORMATION NOT INVESTMENT ADVICE.—Information provided under this subsection

shall not be treated as investment advice for purposes of any Federal or State law.

SEC. 106. ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Except as provided from amounts described in section 108(c), any expense incurred by the contractor in carrying out its functions under this chapter shall be paid first from the earnings of the funds in individual retirement plans and then from balances in such plans.

(b) ALLOCATION.—Expenses under subsection (a) shall be allocated to each individual retirement plan in the manner provided under section 105.

SEC. 107. FIDUCIARY RESPONSIBILITIES; LIABILITY AND PENALTIES; BONDING; INVESTIGATIVE AUTHORITY.

Except as modified by the Secretary of Labor in regulations to correspond to the structure and responsibilities of the contractor, the provisions of sections 8477, 8478, 8478a, and 8479(a) of title 5, United States Code, shall apply to the contractor in the same manner as such provisions apply to the Thrift Savings Fund.

SEC. 108. SELECTION OF CONTRACTOR.

(a) SELECTION.—

(1) IN GENERAL.—The Secretary of Labor shall contract out, on a competitive basis, the duties under this chapter to a private entity.

(2) MEASUREMENT OF CONTRACT PERFORMANCE.—No contract shall be entered into with any entity under paragraph (1) unless the Secretary of Labor finds that such entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent. The Secretary of Labor shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this chapter (including standards and criteria for the termination of such contract), and opportunity shall be provided for public comment prior to implementation.

(b) TREATMENT AS TRUSTEE.—For purposes of the Internal Revenue Code of 1986 the contractor shall be treated in the same manner as a trustee described in section 408(a)(2) of such Code.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the Secretary of Labor to design and award the contract described in subsection (a)(1) and for the contractor to begin operations under this chapter.

(d) EFFECTIVE DATE OF SYSTEM.—The system established under section 102 shall take effect on the first day of the sixth month following the month in which the contract under subsection (a) is awarded.

CHAPTER 2—NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 111. NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. RETIREMENT SAVINGS.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter so much of the qualified retirement contributions of the taxpayer for the taxable year as does not exceed the applicable amount of the adjusted gross income of the taxpayer for such year.

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a), the applicable amount is determined in accordance with the following table:

''If adjusted gross income is:	The applicable amount is:
Not over $15,000	$450.
Over $15,000 but not over $20,000.	$400.
Over $20,000 but not over $25,000.	$350.
Over $25,000 but not over $30,000.	$300.
Over $30,000	$0.

''(c) SECTION NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—This section shall not apply with respect to—

''(1) an employer contribution to a simplified employee pension, and

''(2) any amount contributed to a simple retirement account established under section 408(p).

''(d) OTHER LIMITATIONS AND RESTRICTIONS.—

''(1) BENEFICIARY MUST BE UNDER AGE 70½.—No credit shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made.

''(2) RECONTRIBUTED AMOUNTS.—No credit shall be allowed under this section with respect to a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3).

''(3) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no credit shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

''(4) DENIAL OF CREDIT FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No credit shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii)).

''(5) NO DOUBLE BENEFIT.—No credit shall be allowed under this section for any taxable year with respect to the amount of any qualified retirement contribution for the benefit of an individual if such individual takes a deduction with respect to such amount under section 219 for such taxable year.

''(e) QUALIFIED RETIREMENT CONTRIBUTION.—For purposes of this section, the term 'qualified retirement contribution' means—

''(1) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit, and

''(2) any amount contributed on behalf of any individual to a plan described in section 501(a)(18).

''(f) OTHER DEFINITIONS AND SPECIAL RULES.—

''(1) COMPENSATION.—For purposes of this section, the term 'compensation' has the meaning given in section 219(f)(1).

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

''(4) REPORTS.—The Secretary shall prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer or government plan receiving qualified voluntary employee contributions.

''(5) EMPLOYER PAYMENTS.—For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employer (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income in the taxable year for which the amount was contributed, whether or not a credit for such payment is allowable under this section to the employee.

''(g) CROSS REFERENCE.—

"For failure to provide required reports, see section 6652(g).".

(b) CONFORMING AMENDMENTS.—

(1) Section 86(f) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) section 25A(f)(1) (defining compensation),''.

(2) Clause (i) of section 501(c)(18)(D) is amended by inserting ''which may be taken into account in computing the credit allowable under section 25A or'' before ''with respect''.

(3) Section 6047(c) is amended by inserting ''section 25A or'' before ''section 219''.

(4) Section 6652(g) is amended—

(A) by inserting ''section 25A(f)(4) or'' before ''section 219(f)(4)'', and

(B) by inserting ''CREDITABLE'' before ''DEDUCTIBLE'' in the heading thereof.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25 the following new item:

''Sec. 25A. Retirement savings.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1997.

CHAPTER 3—EXPANDED INDIVIDUAL RETIREMENT ACCOUNTS TO INCREASE COVERAGE AND PORTABILITY

Subchapter A—IRA Deduction

SEC. 121. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (defining applicable dollar amount) is amended—

(1) by striking ''$40,000'' in clause (i) and inserting ''$80,000 ($70,000 in the case of taxable years beginning in 1997, 1998, or 1999)'', and

(2) by striking ''$25,000'' in clause (ii) and inserting ''$50,000 ($45,000 in the case of taxable years beginning in 1997, 1998, or 1999)''.

(b) PHASEOUT OF LIMITATIONS.—Clause (ii) of section 219(g)(2)(A) (relating to amount of reduction) is amended by striking ''$10,000'' and inserting ''an amount equal to 10 times the dollar amount applicable for the taxable year under subsection (b)(1)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 122. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT AND INCOME LIMITATIONS.

(a) IN GENERAL.—Section 219 (relating to retirement savings) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) COST-OF-LIVING ADJUSTMENTS.—

''(1) DEDUCTIBLE AMOUNTS.—In the case of any taxable year beginning in a calendar year after 1997, the $2,000 amount under subsection (b)(1)(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 the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) APPLICABLE DOLLAR AMOUNT.—In the case of any taxable year beginning in a calendar year after 2000, the applicable dollar amounts under subsection (g)(3)(B) 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 the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(3) ROUNDING RULES.—

''(A) DEDUCTION AMOUNTS.—If any amount after adjustment under paragraph (1) is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500.

''(B) APPLICABLE DOLLAR AMOUNTS.—If any amount after adjustment under paragraph (2) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking ''in excess of $2,000 on behalf of any individual'' and inserting ''on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)''.

(2) Section 408(b)(2)(B) is amended by striking ''$2,000'' and inserting ''the dollar amount in effect under section 219(b)(1)(A)''.

(3) Section 408(j) is amended by striking ''$2,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subchapter B—Distributions and Investments

SEC. 131. DISTRIBUTIONS FROM IRAS MAY BE USED WITHOUT ADDITIONAL TAX TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION, OR TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

''(E) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan—

''(i) which are qualified first-time homebuyer distributions (as defined in paragraph (7)); or

''(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (8)) of the taxpayer for the taxable year.''.

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) (relating to subsection not to apply to certain distributions) is amended by striking ''medical care'' and all that follows and inserting ''medical care determined—

''(i) without regard to whether the employee itemizes deductions for such taxable year, and

''(ii) in the case of an individual retirement plan, by treating such employee's dependents as including all children, grandchildren, and ancestors of the employee or such employee's spouse.''.

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking ''or (D)'' and inserting '', (D), or (E)''.

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end the following new paragraphs:

''(7) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(E)(i)—

''(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child (as defined in section 151(c)(3)), or grandchild of such individual.

''(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

''(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

''(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

''(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

''(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include any interest under a contract of deed described in such section. An individual who loses an ownership interest in a principal residence incident to a divorce or legal separation is deemed for purposes of this subparagraph to have had no ownership interest in such principal residence within the period referred to in subclause (II).

''(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

''(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

''(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

''(II) on which construction or reconstruction of such a principal residence is commenced.

''(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—Any portion of any distribution from any individual retirement plan which fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

''(i) section 408(d)(3)(B) shall not be applied to such portion, and

''(ii) such portion shall not be taken into account in determining whether section 408(d)(3)(B) applies to any other amount.

''(8) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(E)(ii)—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse,

''(iii) a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

''(iv) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

as an eligible student at an institution of higher education.

''(B) EXCEPTIONS.—The term 'qualified higher education expenses' does not include—

''(i) expenses with respect to any course or other education involving sports, games, or hobbies, unless such expenses—

''(I) are part of a degree program, or

''(II) are deductible under this chapter without regard to this section; or

''(ii) any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

''(C) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.

''(D) ELIGIBLE STUDENT.—For purposes of subparagraph (A), the term 'eligible student' means a student who—

''(i) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(ii)(I) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education, or

''(II) is enrolled in a course which enables the student to improve the student's job skills or to acquire new job skills.

''(E) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution which—

''(i) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(ii) is eligible to participate in programs under title IV of such Act.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996.

SEC. 132. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t), as amended by section 131(c), is amended by adding at the end the following new paragraph:

''(9) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

''(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

''(B) ORDERING RULE.—For purposes of this paragraph—

''(i) FIRST-IN, FIRST-OUT RULE.—Distributions shall be treated as having been made—

''(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

''(II) then from other contributions (and earnings allocable thereto) in the order in which made.

''(ii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

''(iii) AGGREGATIONS OF CONTRIBUTIONS.—Except as provided by the Secretary, for purposes of this subparagraph—

''(I) all contributions made during the same taxable year may be treated as 1 contribution, and

''(II) all contributions made before the first day of the 5-year period ending on the day before any distribution may be treated as 1 contribution.

''(C) SPECIAL RULE FOR ROLLOVERS.—

''(i) PENSION PLANS.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable to rollover contributions to which section 402(c), 403(a)(4), or 403(b)(8) applied.

''(ii) CONTRIBUTION PERIOD.—For purposes of subparagraph (A), amounts shall be treated as having been held by a plan during any period such contributions were held (or are treated as held under this clause) by any individual retirement plan from which transferred.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1996.

CHAPTER 4—PERIODIC PENSION BENEFITS STATEMENTS

SEC. 141. PERIODIC PENSION BENEFITS STATEMENTS.

(a) IN GENERAL.—Subsection (a) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking ''shall furnish to any plan participant or beneficiary who so requests in writing,'' and inserting ''shall furnish at least once every 3 years, in the case of a defined benefit plan, and annually, in the case of a defined contribution plan, to each plan participant, and shall furnish to any plan participant or beneficiary who so requests,''.

(b) RULE FOR MULTIEMPLOYER PLANS.—Subsection (d) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended to read as follows:

''(d) Each administrator of a plan to which more than 1 unaffiliated employer is required to contribute shall furnish to any plan participant or beneficiary who so requests in writing, a statement described in subsection (a).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the earlier of—

(1) the date of issuance by the Secretary of Labor of regulations providing guidance for simplifying defined benefit plan calculations with respect to the information required under section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025), or

(2) December 31, 1997.

Subtitle B—Improved Fairness in Retirement Plan Benefits

SEC. 151. AMENDMENTS TO SIMPLE RETIREMENT ACCOUNTS.

(a) MINIMUM CONTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—Paragraph (2) of section 408(p) (defining qualified salary reduction arrangement) is amended—

(A) by striking clauses (iii) and (iv) of subparagraph (A) and inserting the following new clauses:

''(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to—

''(I) so much of the amount the employee elects under clause (i)(I) as does not exceed 3 percent of compensation for the year, and

''(II) a uniform percentage (which is at least 50 percent but not more than 100 percent) of the amount the employee elects under clause (i)(I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

''(iv) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year, and

''(v) no contributions may be made other than contributions described in clause (i), (iii), or (iv).'', and

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

''(B) CONTRIBUTION RULES.—

''(i) EMPLOYER MAY ELECT 3-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of clauses (iii) and (iv) of subparagraph (A) for any year if, in lieu of the contributions described in such clauses, the employer elects to make nonelective contributions of 3 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this clause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60-day period for such year under paragraph (5)(C).

''(ii) DISCRETIONARY CONTRIBUTIONS.—A plan shall not be treated as failing to meet the requirements of subparagraph (A)(v) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions under subparagraph (A)(iv) or clause (i) of this subparagraph in excess of 1 percent or 3 percent of compensation, respectively, but only if all such contributions bear a uniform relationship to the compensation of each eligible employee and do not exceed 5 percent of compensation for any eligible employee.

''(iii) COMPENSATION LIMITATION.—The compensation taken into account under this paragraph for any year shall not exceed the limitation in effect for such year under section 401(a)(17).''.

(2) MATCHING CONTRIBUTIONS.—Subparagraph (B) of section 401(k)(11) (relating to adoption of simple plan to meet nondiscrimination tests) is amended—

(A) by striking subclauses (II) and (III) of clause (i) and inserting the following new subclauses:

''(II) the employer is required to make a matching contribution to the trust for any year in an amount equal to—

''(aa) so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

''(bb) a uniform percentage (which is at least 50 percent but not more than 100 percent) of the amount the employee elects under subclause (I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

''(III) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year, and

''(IV) no other contributions may be made other than contributions described in subclause (I), (II), or (III).'', and

(B) by striking clause (ii) and inserting the following new clause:

''(ii) CONTRIBUTION RULES.—

''(I) EMPLOYER MAY ELECT 3-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of subclauses (II) and (III) of clause (i) for any year if, in lieu of the contributions described in such subclauses, the employer elects to make nonelective contributions of 3 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subclause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

''(II) DISCRETIONARY CONTRIBUTIONS.—A plan shall not be treated as failing to meet the requirements of clause (i)(IV) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions under clause (i)(III) or subclause (I) of this clause in excess of 1 percent or 3 percent of compensation, respectively, but only if all such contributions bear a uniform relationship to the compensation of each eligible employee and do not exceed 5 percent of compensation for any eligible employee.''.

(b) FIDUCIARY DUTIES.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended—

(1) by striking ''(1)'' after ''(c)'' in subsection (c),

(2) by striking paragraph (2) in subsection (c), and

(3) by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d)(1) In the case of a simple retirement account which meets the requirements of section 408(p) of the Internal Revenue Code of 1986, no plan sponsor who is otherwise a fiduciary shall be liable under this part for any loss, or by reason of any breach, which results from—

''(A) the designation of the trustee or issuer of such account, or

''(B) the manner in which the assets in the account are invested,

after the earliest of the dates described in paragraph (2).

''(2) The dates described in this paragraph are as follows:

''(A) The date on which an affirmative election with respect to the initial investment of any contribution is made by the individual for whose benefit the account is maintained.

''(B) The date on which there is a rollover of the assets of the account to any other simple retirement account or individual retirement plan.

''(C) The date which is 1 year after the account is established.

''(3) This subsection shall not apply to the plan sponsor of a simple retirement account unless the plan participants are notified in writing (either separately or as part of the notice under section 408(*l*)(2)(C)) that such contributions may be transferred without cost or penalty to another individual account or annuity.''.

(c) OPTION TO SUSPEND CONTRIBUTIONS.—Section 408(p) (relating to simple retirement accounts) is amended by adding at the end the following new paragraph:

''(8) SUSPENSION OF PLAN.—Except as provided by the Secretary, a plan shall not be treated as failing to meet the requirements of this subsection if, under the plan, the employer may suspend all elective, matching, and nonelective contributions under the plan after notifying employees eligible to participate in the arrangement of such suspension in writing at least 30 days in advance. Such suspension shall apply to contributions with respect to compensation earned after the effective date of the suspension. Only 1 suspension under this paragraph may take effect during any year.''.

(d) CONFORMING AMENDMENTS.—Section 408(p)(2)(C), as so added, is amended—

(1) by striking clause (ii),

(2) by striking ''DEFINITIONS'' in the heading and inserting ''ELIGIBLE EMPLOYER'',

(3) by striking ''(i) ELIGIBLE EMPLOYER.—'', and

(4) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this

section shall apply to taxable years beginning after December 31, 1997.

(2) DELAYED EFFECTIVE DATE FOR PLANS ESTABLISHED IN 1997.—In the case of plans established in 1997 under section 408(p) of the Internal Revenue Code of 1986, as in effect on January 1, 1997, the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 152. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Subparagraph (B) of section 401(k)(12) (relating to alternative methods of meeting nondiscrimination requirements) is amended to read as follows:

''(B) NONELECTIVE AND MATCHING CONTRIBUTIONS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

''(ii) NONELECTIVE CONTRIBUTIONS.—The requirements of this clause 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 1 percent of the employee's compensation.

''(iii) MATCHING CONTRIBUTIONS.—The requirements of this clause 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.

''(iv) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of clause (iii) are not met if, under the arrangement, the rate of matching contribution with respect to any rate of elective contribution of a highly compensated employee is greater than that with respect to an employee who is not a highly compensated employee. For purposes of this clause, to the extent provided in regulations, the last sentences of paragraph (3)(A) and subsection (m)(2)(B) shall not apply.

''(v) ALTERNATIVE PLAN DESIGNS.—If the rate of matching contribution with respect to any rate of elective contribution is not equal to the percentage required under clause (iii), an arrangement shall not be treated as failing to meet the requirements of clause (iii) if—

''(I) the rate of an employer's matching contribution does not increase as an employee's rate of elective contribution increase, and

''(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (iii).''.

(b) CONTRIBUTIONS PART OF QUALIFIED CASH OR DEFERRED ARRANGEMENT.—Subparagraph (E)(ii) of section 401(k)(12), as so added, is amended to read as follows:

''(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—Except as provided in regulations, 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), and determining whether contributions provided under a plan satisfy subsection (a)(4) on the basis of equivalent benefits, employer contributions under subparagraph (B) or (C) shall not be taken into account.''.

(c) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m)(11) (relating to alternative method of satisfying tests) is amended—

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

(2) by adding at the end of subparagraph (B) the following new flush sentence:

''To the extent provided in regulations, the last sentences of paragraph (2)(B) and subsection (k)(3)(A) shall not apply for purposes of clause (iii).'', and

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

''(C) TEST MUST BE MET SEPARATELY.—If this paragraph applies to any matching contributions, such contributions shall not be taken into account in determining whether employee contributions satisfy the requirements of this subsection.''.

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—Subparagraph (E) of section 401(k)(3) is amended to read as follows:

''(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) the actual deferral percentage of nonhighly compensated employees determined for such first plan year in the case of—

''(I) an employer who elects to have this clause apply, or

''(II) except to the extent provided by the Secretary, a successor plan.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1433 of the Small Business Job Protection Act of 1996.

SEC. 153. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Subparagraph (B) of section 414(q)(1) (defining highly compensated employee) is amended to read as follows:

''(B) for the preceding year had compensation from the employer in excess of $80,000.''.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (3), (5), and (7) and by redesignating paragraphs (4), (6), and (8) as paragraphs (3) through (5), respectively.

(B) Sections 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)(4)'' and inserting ''section 414(q)(3)''.

(C) Section 416(i)(1)(A) is amended by striking ''section 414(q)(5)'' 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.''.

(B) Subparagraph (A) of section 414(r)(2) is amended by striking ''subsection (q)(5)'' and inserting ''paragraph (9)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1431 of the Small Business Job Protection Act of 1996.

Subtitle C—Improving Retirement Plan Coverage

SEC. 161. CREDIT FOR PENSION PLAN START-UP COSTS OF SMALL EMPLOYERS.

(a) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the small employer pension plan start-up cost credit.''.

(b) SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45D. SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.

''(a) AMOUNT OF CREDIT.—For purposes of section 38—

''(1) IN GENERAL.—The small employer pension plan start-up cost credit for any taxable year is an amount equal to the qualified start-up costs of an eligible employer in establishing a qualified pension plan or qualified employer payroll deduction system.

''(2) AGGREGATE LIMITATION.—The amount of the credit under paragraph (1) for any taxable year shall not exceed $500, reduced by the aggregate amount determined under this section for all preceding taxable years of the taxpayer.

''(b) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means an employer which—

''(1) had an average daily number of employees during the preceding taxable year not in excess of 50, and

''(2) did not make any contributions on behalf of any employee to a qualified pension plan during the 2 taxable years immediately preceding the taxable year.

''(c) OTHER DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which—

''(A) are paid or incurred in connection with the establishment of a qualified pension plan or a qualified employer payroll deduction system, and

''(B) are of a nonrecurring nature.

''(2) QUALIFIED PENSION PLAN.—The term 'qualified pension plan' means—

''(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

''(B) a simplified employee pension (as defined in section 408(k)), or

''(C) a simple retirement account (as defined in section 408(p)).

''(3) QUALIFIED EMPLOYER PAYROLL DEDUCTION SYSTEM.—The term 'qualified employer payroll deduction system' means a system described in section 103 of the Retirement Security Act of 1997.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (n) or (o) of section 414 shall be treated as one person.

''(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowable under this chapter for any qualified start-up costs for which a credit is allowable under subsection (a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

''(8) NO CARRYBACK OF PENSION CREDIT.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan start-up cost credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Small employer pension plan start-up cost credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 162. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Paragraph (11) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.''.

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) APPLICATION OF SECTION 457.—Paragraph (14) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

''(14) TREATMENT OF EXCESS BENEFIT ARRANGEMENTS.—

''(A) IN GENERAL.—Subsections (b)(2) and (c)(1) shall not apply to any excess benefit arrangement 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.

''(B) EXCESS BENEFIT ARRANGEMENT DEFINED.—For purposes of this section, the term 'excess benefit arrangement' means a plan which is maintained by an eligible employer solely for purposes of providing benefits for certain employees in excess of the limits on contributions and benefits imposed by section 415. Such term includes a qualified governmental excess benefit arrangement (as defined in section 415(m)(3)).''.

(2) CONFORMING AMENDMENT.—Subparagraph (E) of section 457(f)(2) (relating to tax treatment of participants where plan or arrangement of employer is not eligible) is amended to read as follows:

''(E) an excess benefit arrangement (as defined in subsection (e)(14)(B)).''.

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Subparagraph (I) of section 415(b)(2) (relating to limitation for defined benefit plans) is amended—

(1) by inserting ''or a multiemployer plan (as defined in section 414(f))'' after ''section 414(d))'' in clause (i),

(2) by inserting ''or multiemployer plan'' after ''governmental plan'' in clause (ii), and

(3) by inserting ''AND MULTIEMPLOYER'' after ''GOVERNMENTAL'' in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1444 of the Small Business Job Protection Act of 1996.

SEC. 163. EXEMPTION OF MIRROR PLANS FROM SECTION 457 LIMITS.

(a) IN GENERAL.—Subsection (e) of section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations), as amended by section 162(b)(1), is amended by adding at the end the following new paragraph:

''(15) EXEMPTION FOR MIRROR PLANS.—

''(A) IN GENERAL.—Amounts of compensation deferred under a mirror plan shall not be taken into account in applying this section to amounts of compensation deferred under any other deferred compensation plan.

''(B) MIRROR PLAN.—The term 'mirror plan' means a plan, program, or arrangement maintained solely for the purpose of providing retirement benefits for employees in excess of the limitations imposed by section 401(a)(17) or section 415, or both.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 164. SPECIAL RULES FOR SELF-EMPLOYED INDIVIDUALS.

(a) CONTRIBUTIONS BY SELF-EMPLOYED INDIVIDUALS TREATED AS MATCHING CONTRIBUTIONS.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(v) CONTRIBUTIONS BY SELF-EMPLOYED INDIVIDUALS TREATED AS MATCHING CONTRIBUTIONS.—For purposes of this title, matching contributions (as defined in section 401(m)(4)(A)) made on behalf of a self-employed individual shall not be treated as elective deferrals (within the meaning of section 402(g)(3)) or as made pursuant to an election by the self-employed individual.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1996.

SEC. 165. IMMEDIATE PARTICIPATION IN THE THRIFT SAVINGS PLAN FOR FEDERAL EMPLOYEES.

(a) ELIMINATION OF CERTAIN WAITING PERIODS FOR PURPOSES OF EMPLOYEE CONTRIBUTIONS.—Paragraph (4) of section 8432(b) of title 5, United States Code, is amended to read as follows:

''(4) The Executive Director shall prescribe such regulations as may be necessary to carry out the following:

''(A) Notwithstanding subparagraph (A) of paragraph (2), an employee or Member described in such subparagraph shall be afforded a reasonable opportunity to first make an election under this subsection beginning on the date of commencing service or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

''(B) An employee or Member described in subparagraph (B) of paragraph (2) shall be afforded a reasonable opportunity to first make an election under this subsection (based on the appointment or election described in such subparagraph) beginning on the date of commencing service pursuant to such appointment or election or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

''(C) Notwithstanding the preceding provisions of this paragraph, contributions under paragraphs (1) and (2) of subsection (c) shall not be payable with respect to any pay period before the earliest pay period for which such contributions would otherwise be allowable under this subsection if this paragraph had not been enacted.

''(D) Sections 8351(a)(2), 8440a(a)(2), 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be applied in a manner consistent with the purposes of subparagraphs (A) and (B), to the extent those subparagraphs can be applied with respect thereto.

''(E) Nothing in this paragraph shall affect paragraph (3).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 8432(a) of title 5, United States Code, is amended—

(A) in the first sentence by striking ''(b)(1)'' and inserting ''(b)''; and

(B) by amending the second sentence to read as follows: ''Contributions under this subsection pursuant to such an election shall, with respect to each pay period for which such election remains in effect, be made in accordance with a program of regular contributions provided in regulations prescribed by the Executive Director.''.

(2) Section 8432(b)(1)(B) of such title is amended by inserting ''(or any election allowable by virtue of paragraph (4))'' after ''subparagraph (A)''.

(3) Section 8432(b)(3) of such title is amended by striking ''Notwithstanding paragraph (2)(A), an'' and inserting ''An''.

(4) Section 8432(i)(1)(B)(ii) of such title is amended by striking ''either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or''.

(5) Section 8439(a)(1) of such title is amended by inserting ''who makes contributions or'' after ''for each individual'' and by striking ''section 8432(c)(1)'' and inserting ''section 8432''.

(6) Section 8439(c)(2) of such title is amended by adding at the end the following: ''Nothing in this paragraph shall be considered to limit the dissemination of information only to the times required under the preceding sentence.''.

(7) Sections 8440a(a)(2) and 8440d(a)(2) of such title are amended by striking all after ''subject to'' and inserting ''subject to this chapter.''.

(c) EFFECTIVE DATE.—This section shall take effect 6 months after the date of the enactment of this Act or such earlier date as the Executive Director may by regulation prescribe.

SEC. 166. MODIFICATION OF 10 PERCENT TAX FOR NONDEDUCTIBLE CONTRIBUTIONS.

(a) IN GENERAL.—Subparagraph (B) of section 4972(c)(6) (relating to exceptions) is amended to read as follows:

''(B) contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7), in an amount not in excess of the greater of—

''(i) the amount of contributions not in excess of 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans, or

''(ii) the amount of contributions described in section 401(m)(4)(A) or 402(g)(3)(A).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle D—Simplifying Plan Requirements

SEC. 171. FULL FUNDING LIMITATION FOR MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO CODE.—

(1) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(A) by inserting ''or in the case of a multiemployer plan,'' after ''paragraph (6)(B),'', and

(B) by inserting ''AND MULTIEMPLOYER PLANS'' after ''PARAGRAPH (6)(B)'' in the heading thereof.

(2) VALUATION.—Section 412(c)(9) (relating to annual valuation) is amended—

(A) by inserting ''(3 years in the case of a multiemployer plan)'' after ''year'', and

(B) by striking ''ANNUAL VALUATION'' in the heading and inserting ''VALUATION''.

(b) AMENDMENTS TO ERISA.—

(1) FULL-FUNDING LIMITATION.—Section 302(c)(7)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(C)) is amended—

(A) by inserting ''or in the case of a multiemployer plan,'' after ''paragraph (6)(B),'', and

(B) by inserting ''AND MULTIEMPLOYER PLANS'' after ''PARAGRAPH (6)(B)'' in the heading thereof.

(2) VALUATION.—Section 302(c)(9) of such Act (29 U.S.C. 1082(c)(9)) is amended—

(A) by inserting ''(3 years in the case of a multiemployer plan)'' after ''year'', and

(B) by striking ''ANNUAL VALUATION'' in the heading and inserting ''VALUATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 172. ELIMINATION OF PARTIAL TERMINATION RULES FOR MULTIEMPLOYER PLANS.

(a) PARTIAL TERMINATION RULES FOR MULTIEMPLOYER PLANS.—Section 411(d)(3) (relating to termination or partial termination; discontinuance of contributions) is amended by adding at the end the following new sentence: ''This paragraph shall not apply in the case of a partial termination of a multiemployer plan.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partial terminations beginning after December 31, 1996.

SEC. 173. MODIFICATIONS TO NONDISCRIMINATION AND MINIMUM PARTICIPATION RULES WITH RESPECT TO GOVERNMENTAL PLANS.

(a) GENERAL NONDISCRIMINATION AND PARTICIPATION RULES.—

(1) NONDISCRIMINATION REQUIREMENTS.—Paragraph (5) of section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following new subparagraph:

''(F) GOVERNMENTAL PLANS.—Paragraphs (3) and (4) shall not apply to a governmental plan (within the meaning of section 414(d)).''.

(2) ADDITIONAL PARTICIPATION REQUIREMENTS.—Subparagraph (H) of section 401(a)(26) is amended to read as follows:

''(H) EXCEPTION FOR GOVERNMENTAL PLANS.—This paragraph shall not apply to a governmental plan (within the meaning of section 414(d)).''.

(3) MINIMUM PARTICIPATION STANDARDS.—Paragraph (2) of section 410(c) is amended to read as follows:

''(2) A plan described in paragraph (1) shall be treated as meeting the requirements of this section for purposes of section 401(a), except that in the case of a plan described in subparagraph (B), (C), or (D) of paragraph (1), this paragraph shall only apply if such plan meets the requirements of section 401(a)(3) (as in effect on September 1, 1974).''.

(b) PARTICIPATION STANDARDS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

''(E)(i) The requirements of subparagraph (A)(i) and (C) shall not apply to a governmental plan (within the meaning of section 414(d)).

''(ii) The requirements of subsection (m)(2) (without regard to subsection (a)(4)) shall apply to any matching contribution of a governmental plan (as so defined).''.

(c) NONDISCRIMINATION RULES FOR SECTION 403(b) PLANS.—Paragraph (12) of section 403(b) is amended by adding at the end the following new subparagraph:

''(C) GOVERNMENTAL PLANS.—For purposes of paragraph (1)(D), the requirements of subparagraph (A)(i) shall not apply to a governmental plan (within the meaning of section 414(d)).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—A governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of sections 401(a)(3), 401(a)(4), 401(a)(26), 401(k), 401(m), 403 (b)(1)(D) and (b)(12), and 410 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 174. ELIMINATION OF REQUIREMENT FOR PLAN DESCRIPTIONS AND THE FILING REQUIREMENT FOR SUMMARY PLAN DESCRIPTIONS AND DESCRIPTIONS OF MATERIAL MODIFICATIONS TO A PLAN; TECHNICAL CORRECTIONS.

(a) FILING REQUIREMENTS.—Section 101(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(b)) is amended by striking paragraphs (1), (2), and (3) and by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(b) PLAN DESCRIPTION.—

(1) IN GENERAL.—Section 102(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(a)) is amended—

(A) by striking paragraph (2), and

(B) by striking ''(a)(1)'' and inserting ''(a)''.

(2) CONFORMING AMENDMENTS.—

(A) Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended by striking ''The plan description and summary plan description shall contain'' and inserting ''The summary plan description shall contain''.

(B) The heading for section 102 of such Act is amended by striking ''PLAN DESCRIPTION AND''.

(c) FURNISHING OF REPORTS.—

(1) IN GENERAL.—Section 104(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(a)(1)) is amended to read as follows:

''SEC. 104. (a)(1) The administrator of any employee benefit plan subject to this part shall file with the Secretary the annual report for a plan year within 210 days after the close of such year (or within such time as may be required by regulations promulgated by the Secretary in order to reduce duplicative filing). The Secretary shall make copies of such annual reports available for inspection in the public document room of the Department of Labor.''.

(2) SECRETARY MAY REQUEST DOCUMENTS.—

(A) IN GENERAL.—Section 104(a) of such Act (29 U.S.C. 1024(a)) is amended by adding at the end the following new paragraph:

''(6) The administrator of any employee benefit plan subject to this part shall furnish to the Secretary, upon request, any documents relating to the employee benefit plan, including but not limited to, the latest summary plan description (including any summaries of plan changes not contained in the summary plan description), and the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated.''.

(B) PENALTY.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) If, within 30 days of a request by the Secretary to a plan administrator for documents under section 104(a)(6), the plan administrator fails to furnish the material requested to the Secretary, the Secretary may assess a civil penalty against the plan administrator of up to $100 a day from the date of such failure (but in no event in excess of $1,000 per request). No penalty shall be imposed under this paragraph for any failure resulting from matters reasonably beyond the control of the plan administrator.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended by striking ''section 102(a)(1)'' each place it appears and inserting ''section 102(a)''.

(2) Section 104(b)(2) of such Act (29 U.S.C. 1024(b)(2)) is amended by striking ''the plan description and'' and inserting ''the latest updated summary plan description and''.

(3) Section 104(b)(4) of such Act (29 U.S.C. 1024(b)(4)) is amended by striking ''plan description''.

(4) Section 106(a) of such Act (29 U.S.C. 1026(a)) is amended by striking ''descriptions,''.

(5) Section 107 of such Act (29 U.S.C. 1027) is amended by striking ''description or''.

(6) Paragraph (2)(B) of section 108 of such Act (29 U.S.C. 1028) is amended to read as follows: ''(B) after publishing or filing the annual reports,''.

(7) Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking ''or (5)'' and inserting ''(5), or (6)''.

(e) TECHNICAL CORRECTION.—Section 1144(c) of the Social Security Act (42 U.S.C. 1320b–14(c)) is amended by redesignating paragraph (9) as paragraph (8).

SEC. 175. NEW TECHNOLOGIES IN RETIREMENT PLANS.

The Secretary of the Treasury and the Secretary of Labor shall expand their efforts to examine existing guidance regarding notice, recordkeeping, and operational requirements for retirement plans, in order to permit the use of new technologies by plan sponsors and administrators in ways which maintain the protection of the rights of participants and beneficiaries.

TITLE II—SECURITY

SEC. 200. AMENDMENT OF ERISA.

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 Employee Retirement Income Security Act of 1974.

Subtitle A—General Provisions

SEC. 201. SECTION 401(k) INVESTMENT PROTECTION.

(a) LIMITATIONS ON INVESTMENT IN EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY BY CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 407(d) (29 U.S.C. 1107(d)) is amended by adding at the end the following new subparagraph:

''(D) The term 'eligible individual account plan' does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings thereon), if such elective deferrals (or earnings thereon) are required to be invested in qualifying employer securities or qualifying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant (or the participant's beneficiary) on whose behalf such elective deferrals are made to the plan. For the purposes of subsection (a), such portion shall be

treated as a separate plan. This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.''.

(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) TRANSITION RULE FOR PLANS HOLDING EXCESS SECURITIES OR PROPERTY.—

(A) IN GENERAL.—In the case of a plan which on the date of the enactment of this Act, has holdings of employer securities and employer real property (as defined in section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)) in excess of the amount specified in such section 407, the amendment made by this section applies to any acquisition of such securities and property on or after such date, but does not apply to the specific holdings which constitute such excess during the period of such excess.

(B) SPECIAL RULE FOR CERTAIN ACQUISITIONS.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property entered into and in effect on the date of the enactment of this Act, shall be treated as acquired immediately before such date.

SEC. 202. REQUIREMENT OF ANNUAL, DETAILED INVESTMENT REPORTS APPLIED TO CERTAIN 401(k) PLANS.

(a) IN GENERAL.—Section 104(b)(3) (29 U.S.C. 1024(b)(3)) is amended—

(1) by inserting ''(A)'' after ''(3)''; and

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

''(B)(i) If a plan includes a qualified cash or deferred arrangement (as defined in section 401(k)(2) of the Internal Revenue Code of 1986) and is maintained by an employer with less than 100 participants, the administrators shall furnish to each participant and to each beneficiary receiving benefits under the plan an annual investment report detailing such information as the Secretary by regulation shall require.

''(ii) Clause (i) shall not apply with respect to any participant described in section 404(c).''.

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Labor, in prescribing regulations required under section 104(b)(3)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(b)(3)(B)(i)), as added by subsection (a), shall consider including in the information required in an annual investment report the following:

(A) Total plan assets and liabilities as of the beginning and ending of the plan year.

(B) Plan income and expenses and contributions made and benefits paid for the plan year.

(C) Any transaction between the plan and the employer, any fiduciary, or any 10-percent owner during the plan year, including the acquisition of any employer security or employer real property.

(D) Any noncash contributions made to or purchases of nonpublicly traded securities made by the plan during the plan year without an appraisal by an independent third party.

In determining the types of information to be included in the annual investment report presented to participants and beneficiaries, the Secretary of Labor shall take into account the purposes of the diversification protection provided to such participants and beneficiaries by section 407(d)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(3)(D)), as added by section 201(a).

(2) ELECTRONIC TRANSFER.—The Secretary of Labor in prescribing such regulations shall also make provision for the electronic transfer of the required annual investment report by a plan administrator to plan participants and beneficiaries.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 203. STUDY ON INVESTMENTS IN COLLECTIBLES.

(a) STUDY.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall study the extent to which pension plans invest in collectibles and whether such investments present a risk to the pension security of the participants and beneficiaries of such plans.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Labor shall submit a report to the Congress containing the findings of the study described in subsection (a) and any recommendations for legislative action.

SEC. 204. QUALIFIED EMPLOYER PLANS PROHIBITED FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.

(a) IN GENERAL.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(35) PROHIBITION OF LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.—A trust shall not constitute a qualified trust under this section if the plan makes any loan to any beneficiary under the plan through the use of any credit card or any other intermediary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 205. MULTIEMPLOYER PLAN BENEFITS GUARANTEED.

(a) IN GENERAL.—Section 4022A(c) (29 U.S.C. 1322a(c)) is amended—

(1) by striking ''$5'' each place it appears in paragraph (1) and inserting ''$11'',

(2) by striking ''$15'' in paragraph (1) and inserting ''$33'', and

(3) by striking paragraphs (2), (5), and (6) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any multiemployer plan that has not received financial assistance (within the meaning of section 4261 of the Employee Retirement Income Security Act of 1974) within the 1-year period ending on the date of the enactment of this Act.

SEC. 206. PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 502(i) (29 U.S.C. 1132(i)) is amended by striking ''5 percent'' and inserting ''10 percent''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act.

SEC. 207. SUBSTANTIAL OWNER BENEFITS.

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Subparagraphs (B) and (C) of section 4022(b)(5) (29 U.S.C. 1322(b)(5)) are amended to read as follows:

''(B) For purposes of this title, the term 'majority owner' has the same meaning as substantial owner under subparagraph (A), except that subparagraph (A) shall be applied by substituting '50 percent or more' for 'more than 10 percent' each place it appears.

''(C) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall not exceed the product of—

''(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 30, and

''(ii) the amount of the majority owner's monthly benefits guaranteed under subsection (a) (as limited by paragraph (3) of this subsection).''.

(b) MODIFICATION OF ALLOCATION OF ASSETS.—

(1) Section 4044(a)(4)(B) (29 U.S.C. 1344(a)(4)(B)) is amended by striking ''section 4022(b)(5)'' and inserting ''section 4022(b)(5)(C)''.

(2) Section 4044(b) (29 U.S.C. 1344(b)) is amended—

(A) by striking ''(5)'' in paragraph (2) and inserting ''(4), (5),'', and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to subparagraph (B). If assets allocated to subparagraph (B) are insufficient to satisfy in full the benefits in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan terminations—

(1) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) on or after the date of the enactment of this Act, or

(2) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation on or after such date.

SEC. 208. REVERSION REPORT.

(a) IN GENERAL.—Section 4008 (29 U.S.C. 1308) is amended by adding at the end the following new subsection:

''(b) REVERSION REPORT.—As soon as practicable after the close of each fiscal year, the Secretary of Labor (acting in the Secretary's capacity as chairman of the corporation's board) shall transmit to the President and the Congress a report providing information on plans from which residual assets were distributed to employers pursuant to section 4044(d).''.

(b) CONFORMING AMENDMENT.—Section 4008 (29 U.S.C. 1308) is amended by striking ''SEC. 4008.'' and inserting ''SEC. 4008. (a) ANNUAL REPORT.—''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after September 30, 1996.

SEC. 209. DEVELOPMENT OF ADDITIONAL REMEDIES.

(a) FINDINGS.—The Congress finds that—

(1) the provisions of this Act, like many of those proposed by the President and recently signed into law, are designed to expand retirement savings;

(2) this goal can be achieved in part by simplifying the pension system and reducing administrative costs of maintaining pension plans for all employers;

(3) such simplification can benefit not only the implementation and ongoing administration of pension plans but also the correction

of problems that arise in the operation of such plans;

(4) the Secretary of the Treasury has commendably already acted to develop programs intended to facilitate such corrections; and

(5) efficient correction serves participants and beneficiaries not only by fulfilling the law's requirements regarding pension plans but also by directing funds into plans rather than toward correction efforts and by encouraging employers to continue to sponsor support for such plans.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of the Treasury should—

(1) review existing correction mechanisms to determine whether modifications might facilitate additional utilization by sponsors, improve voluntary compliance, and hasten the correction of pension plans,

(2) consider whether additional means of addressing nonegregious violations should be explored,

(3) make whatever legislative recommendations, if any, appear necessary to fulfill these goals, and

(4) remain cognizant that the Congress, as well as the Secretary, considers the continuing security of retirement savings for workers, retirees, and beneficiaries of fundamental importance.

Subtitle B—ERISA Enforcement

SEC. 211. REPEAL OF LIMITED SCOPE AUDIT.

(a) IN GENERAL.—Section 103(a)(3)(C) (29 U.S.C. 1023(a)(3)(C)) is amended by adding at the end the following:

''(ii) If an accountant is offering an opinion under this section in the case of an employee pension benefit plan, the accountant shall, to the extent consistent with generally accepted auditing standards, rely on the work of any independent public accountant of any bank or similar institution or insurance carrier that holds assets or processes transactions of the employee pension benefit plan provided that such bank, institution, or insurance carrier is regulated, supervised, and subject to periodic examination by a State or Federal agency.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 103(a)(3)(A) of such Act (29 U.S.C. 1023(a)(3)(A)) is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (C)(i)''.

(2) Section 103(a)(3)(C) of such Act (29 U.S.C. 1023(a)(3)(C)) is amended by striking ''(C) The'' and inserting ''(C)(i) In the case of an employee benefit plan other than an employee pension benefit plan, the''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to opinions required under section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 for plan years beginning on or after January 1 of the calendar year following the date of the enactment of this Act.

SEC. 212. ADDITIONAL REQUIREMENTS FOR QUALIFIED PUBLIC ACCOUNTANTS.

(a) IN GENERAL.—Section 103(a)(3)(D) (29 U.S.C. 1023(a)(3)(D)) is amended—

(1) by inserting ''(i)'' after ''(D)'';

(2) by inserting '', with respect to any engagement of an accountant under subparagraph (A)'' after ''means'';

(3) by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II), and (III), respectively;

(4) by striking the period at the end of subclause (III) (as so redesignated) and inserting a comma;

(5) by adding after subclause (III) (as so redesignated), and flush with clause (i), the following:

''but only if such person meets the requirements of clauses (ii) and (iii) with respect to such engagement.''; and

(6) by adding at the end the following new clauses:

''(ii) A person meets the requirements of this clause with respect to an engagement of such person as an accountant under subparagraph (A) if such person—

''(I) has in operation an appropriate internal quality control system;

''(II) has undergone a qualified external quality control review of the person's accounting and auditing practices, including such practices relevant to employee benefit plans (if any), during the 3-year period immediately preceding such engagement; and

''(III) has completed, within the 2-year period immediately preceding such engagement, at least 80 hours of continuing education or training which contributes to the accountant's professional proficiency and which meets such requirements as may be prescribed by the Secretary in regulations.

The Secretary shall issue the regulations under subclause (III) not later than December 31, 1998.

''(iii) A person meets the requirements of this clause with respect to an engagement of such person as an accountant under subparagraph (A) if such person meets such additional requirements and qualifications of regulations which the Secretary deems necessary to ensure the quality of plan audits.

''(iv) For purposes of clause (ii)(II), an external quality control review shall be treated as qualified with respect to a person referred to in clause (ii) if—

''(I) such review is performed in accordance with the requirements of external quality control review programs of recognized auditing standard-setting bodies, as determined in regulations of the Secretary, and

''(II) in the case of any such person who has, during the peer review period, conducted one or more previous audits of employee benefit plans, such review includes the review of an appropriate number (determined as provided in such regulations, but in no case less than one) of plan audits in relation to the scale of such person's auditing practice.

The Secretary shall issue the regulations under subclause (I) not later than December 31, 1998.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to plan years beginning on or after the date which is 3 years after the date of the enactment of this Act.

(2) RESTRICTIONS ON CONDUCTING EXAMINATIONS.—Clause (iii) of section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)(6)) shall take effect on the date of the enactment of this Act.

SEC. 213. CLARIFICATION OF FIDUCIARY PENALTIES.

(a) MODIFICATION OF PROHIBITION OF ASSIGNMENT OR ALIENATION.—

(1) IN GENERAL.—Section 206(d) (29 U.S.C. 1056(d)) is amended by adding at the end the following new paragraphs:

''(4) Paragraph (1) shall not apply to any offset of a participant's accrued benefit in an employee pension benefit plan against an amount that the participant is ordered or required to pay to the plan if—

''(A) the order or requirement to pay arises—

''(i) under a judgment of conviction for a crime involving such plan,

''(ii) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of this subtitle, or

''(iii) pursuant to a settlement agreement between the Secretary and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of this subtitle by a fiduciary or any other person,

''(B) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's accrued benefit in the plan, and

''(C) if the participant has a spouse at the time at which the offset is to be made—

''(i) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan,

''(ii) such spouse is ordered or required in such judgment, order, decree, or settlement to pay an amount to the plan in connection with a violation of part 4 of this title, or

''(iii) in such judgment, order, decree, or settlement, such spouse retains the right to receive the value of the survivor annuity under a qualified joint and survivor annuity provided pursuant to section 205(a)(1) and under a qualified preretirement survivor annuity provided pursuant to section 205(a)(2), determined in accordance with paragraph (5).

''(5)(A) The value of the survivor annuity described in paragraph (4)(C)(iii) shall be determined as if—

''(i) the participant terminated employment on the date of the offset,

''(ii) there was no offset,

''(iii) the plan permitted retirement only on or after normal retirement age,

''(iv) the plan provided only the minimum-required qualified joint and survivor annuity, and

''(v) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

''(B) For purposes of this paragraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to judgments, orders, and decrees issued, and settlement agreements entered into, on or after the date of the enactment of this Act.

(b) CIVIL PENALTIES FOR BREACH OF FIDUCIARY RESPONSIBILITY.—

(1) IMPOSITION AND AMOUNT OF PENALTY MADE DISCRETIONARY.—Section 502(l)(1) (29 U.S.C. 1132(l)(1)) is amended—

(A) by striking ''shall'' and inserting ''may'', and

(B) by striking ''equal to'' and inserting ''not greater than''.

(2) APPLICABLE RECOVERY AMOUNT.—Section 502(l)(2) (29 U.S.C. 1132(l)(2)) is amended to read as follows:

''(2) For purposes of paragraph (1), the term 'applicable recovery amount' means any amount which is recovered from (or on behalf of) any fiduciary or other person with respect to a breach or violation described in paragraph (1) on or after the 30th day following receipt by such fiduciary or other person of written notice from the Secretary of the violation, whether paid voluntarily or by order of a court in a judicial proceeding instituted by the Secretary under subsection (a)(2) or (a)(5). The Secretary may, in the Secretary's sole discretion, extend the 30-day period described in the preceding sentence.''.

(3) OTHER RULES.—Section 502(*l*) (29 U.S.C. 1132(*l*)) is amended by adding at the end the following new paragraphs:

''(5) A person shall be jointly and severally liable for the penalty described in paragraph

(1) to the same extent that such person is jointly and severally liable for the applicable recovery amount on which the penalty is based.

''(6) No penalty shall be assessed under this subsection unless the person against whom the penalty is assessed is given notice and opportunity for a hearing with respect to the violation and applicable recovery amount.''.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to any breach of fiduciary responsibility or other violation of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 occurring on or after the date of the enactment of this Act.

(B) TRANSITION RULE.—In applying the amendment made by paragraph (2) (relating to applicable recovery amount), a breach or other violation occurring before the date of the enactment of this Act which continues after the 180th day after such date (and which may have been discontinued at any time during its existence) shall be treated as having occurred after such date of enactment.

SEC. 214. CONFORMING AMENDMENTS RELATING TO ERISA ENFORCEMENT.

(a) SPECIAL RULE FOR CERTAIN JUDGMENTS AND SETTLEMENTS.—Section 401(a)(13)of the Internal Revenue Code of 1986 (relating to assignment and alienation) is amended by adding at the end the following new subparagraphs:

''(C) SPECIAL RULE FOR CERTAIN JUDGMENTS AND SETTLEMENTS.—Subparagraph (A) shall not apply to any offset of a participant's accrued benefit in a plan against an amount that the participant is ordered or required to pay to the plan if—

''(i) the order or requirement to pay arises—

''(I) under a judgment of conviction for a crime involving such plan,

''(II) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or

''(III) pursuant to a settlement agreement between the Secretary of Labor and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of subtitle B of title I of such Act,

''(ii) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's accrued benefit in the plan, and

''(iii) if the participant has a spouse at the time at which the offset is to be made—

''(I) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan,

''(II) such spouse is ordered or required to pay in such judgment, order, decree, or settlement an amount to the plan in connection with a violation of part 4 of this title, or

''(III) in such judgment, order, decree, or settlement, such spouse retains the right to receive the value of the survivor annuity under a qualified joint and survivor annuity provided pursuant to paragraph (11)(A)(i) and under a qualified preretirement survivor annuity provided pursuant to paragraph (11)(A)(ii), determined in accordance with subparagraph (D).

''(D) DETERMINATION OF VALUE OF SURVIVOR ANNUITY IN CONNECTION WITH OFFSET.—The value of the survivor annuity described in subparagraph (C)(iii)(III) shall be determined as if—

''(i) the participant terminated employment on the date of the offset,

''(ii) there was no offset,

''(iii) the plan permitted retirement only on or after normal retirement age,

''(iv) the plan provided only the minimum-required qualified joint and survivor annuity, and

''(v) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

For purposes of this subparagraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse.

''(E) WAIVER OF CERTAIN DISTRIBUTION REQUIREMENTS.—With respect to the requirements of subsections (a) and (k) of section 401, section 403(b), and section 409(d), a plan shall not be treated as failing to meet such requirements solely by reason of an offset under subparagraph (C).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to judgments, orders, and decrees issued, and settlement agreements entered into, on or after the date of the enactment of this Act.

TITLE III—PORTABILITY

SEC. 301. FASTER VESTING OF EMPLOYER MATCHING CONTRIBUTIONS.

(a) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) by striking ''or (B)'' and inserting ''(B), and, if applicable, (C)'',

(2) by striking ''3'', ''4'', ''5'', ''6'', and ''7'' in the table in subparagraph (B) and inserting ''1'', ''2'', ''3'', ''4'', and ''5'', respectively, and

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

''(C) 401(k) PLANS.—A plan satisfies the requirements of this subparagraph if—

''(i) the plan includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) of the Internal Revenue Code of 1986, and

''(ii) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer matching contributions (as defined in section 401(m)(4)(A) of such Code).

For purposes of this subparagraph, matching contributions shall be taken into account regardless of whether the matching contributions are made to the same plan as the contributions made under section 401(k) of such Code, and matching contributions to any plan shall be taken into account if such matching contributions are made with respect to after-tax employee contributions includible in gross income and if the employer's limit on matching contributions with respect to such includible employee contributions is coordinated with the employer's limit on matching contributions with respect to contributions under such section.''.

(b) CONFORMING AMENDMENTS.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to employer contributions) is amended—

(1) by striking ''or (B)'' and inserting ''(B), and, if applicable, (C)'',

(2) by striking ''3'', ''4'', ''5'', ''6'', and ''7'' in the table in subparagraph (B) and inserting ''1'', ''2'', ''3'', ''4'', and ''5'', respectively,

(3) by striking ''3 TO 7'' and inserting ''1 TO 5'', and

(4) by adding at the end the following new subparagraph:

''(C) 401(k) PLANS.—A plan satisfies the requirements of this subparagraph if—

''(i) the plan includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)), and

''(ii) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer matching contributions (as defined in section 401(m)(4)(A)).

For purposes of this subparagraph, matching contributions shall be taken into account regardless of whether the matching contributions are made to the same plan as the contributions made under section 401(k), and matching contributions to any plan shall be taken into account if such matching contributions are made with respect to after-tax employee contributions and if the employer's limit on matching contributions with respect to such after-tax employee contributions is coordinated with the employer's limit on matching contributions with respect to contributions under such section.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 1997.

(2) APPLICATION TO CURRENT EMPLOYEES.—The amendments made by this section shall not apply to any employee who does not have at least 1 hour of service in any plan year beginning after December 31, 1997.

(3) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified by the date of the enactment of this Act, the amendments made by this section shall not apply to employees covered by any such agreement in plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(ii) January 1, 1998, or

(B) January 1, 2002.

SEC. 302. RATIONALIZE THE RESTRICTIONS ON DISTRIBUTIONS FROM 401(k) PLANS.

(a) IN GENERAL.—Section 401(k)(2)(B)(i)(I) of the Internal Revenue Code of 1986 (relating to qualified cash or deferred arrangements) is amended by striking ''separation from service'' and inserting ''severance from employment''.

(b) BUSINESS SALE REQUIREMENTS DELETED.—

(1) IN GENERAL.—Section 401(k)(2)(B)(i)(II) of the Internal Revenue Code of 1986 (relating to qualified cash or deferred arrangements) is amended by striking ''an event'' and inserting ''a plan termination''.

(2) CONFORMING AMENDMENTS.—Section 401(k)(10) of such Code is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—A plan termination is described in this paragraph if the termination of the plan is without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).'',

(B) by striking subparagraph (C), and

(C) by striking ''OR DISPOSITION OF ASSETS OR SUBSIDIARY'' in the heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1997.

SEC. 303. TREATMENT OF TRANSFERS BETWEEN DEFINED CONTRIBUTION PLANS.

(a) IN GENERAL.—Section 411(d)(6) of the Internal Revenue Code of 1986 (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following new subparagraph:

''(D) PLAN TRANSFERS.—A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this paragraph merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

''(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

''(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i),

''(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

''(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election,

''(v) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 417, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 417(a)2), and

''(vi) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution.''.

(b) CONFORMING AMENDMENT.—Section 204(g)of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following new paragraph:

''(4) A defined contribution plan (in this paragraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this paragraph referred to as the 'transferor plan') to the extent that—

''(A) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

''(B) the terms of both the transferor plan and the transferee plan authorize the transfer described in subparagraph (A),

''(C) the transfer described in subparagraph (A) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

''(D) the election described in subparagraph (C) was made after the participant or beneficiary received a notice describing the consequences of making the election,

''(E) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 205, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 205(c)2), and

''(F) the transferee plan allows the participant or beneficiary described in subparagraph (C) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1997.

SEC. 304. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

''(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

''(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

''(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

''(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

''(A) to the corporation, or

''(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

''(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

''(A) in a single sum (plus interest), or

''(B) in such other form as is specified in regulations of the corporation.

''(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

''(A) the plan is a pension plan (within the meaning of section 3(2))—

''(i) to which the provisions of this section do not apply (without regard to this subsection), and

''(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

''(B) at the time the assets are to be distributed upon termination, the plan—

''(i) has missing participants, and

''(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

''(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 206(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(f)) is amended—

(A) by striking ''title IV'' and inserting ''section 4050'', and

(B) by striking ''the plan shall provide that''.

(2) Section 401(a)(34) (relating to benefits of missing participants on plan termination) is amended by striking ''title IV'' and inserting ''section 4050''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

TITLE IV—TOWARD EQUITY FOR WOMEN

SEC. 401. INDIVIDUAL'S PARTICIPATION IN PLAN NOT TREATED AS PARTICIPATION BY SPOUSE.

(a) IN GENERAL.—Paragraph (1) of section 219(g) of the Internal Revenue Code of 1986 (relating to limitation on deduction for active participants in certain pension plans) is amended by striking ''or the individual's spouse''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 402. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS.

(a) AMENDMENTS TO ERISA.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Paragraph (1) of section 205(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(a)) is amended by inserting ''or, at the election of the participant, shall be provided in the form of a qualified joint and ⅔ survivor annuity'' after ''survivor annuity,''.

(B) DEFINITION.—Subsection (d) of section 205 of such Act (29 U.S.C. 1055) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by inserting ''(1)'' after ''(d)'', and

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

''(2) For purposes of this section, the term ''qualified joint and ⅔ survivor annuity'' means an annuity—

''(A) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of surviving individual (either the participant or the spouse) equal to 67 percent of the amount of the annuity which is payable to the participant while both the participant and the spouse are alive,

''(B) which is the actuarial equivalent of a single annuity for the life of the participant, and

''(C) which, for all other purposes of this Act, is treated as a qualified joint and survivor annuity.''.

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 205(c)(3)(A) of such Act (29 U.S.C. 1055(c)(3)(A)) is amended to read as follows:

''(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and ⅔ survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen,''.

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Clause (i) of section 401(a)(11)(A) of the Internal Revenue Code of 1986 (relating to requirement of joint and survivor annuity and preretirement survivor annuity) is amended by inserting ''or, at the election of the participant, shall be provided in the form of a qualified joint and ⅔ survivor annuity'' after ''survivor annuity,''.

(B) DEFINITION.—Section 417 of such Code (relating to definitions and special rules for purposes of minimum survivor annuity requirements) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DEFINITION OF QUALIFIED JOINT AND ⅔ SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11), the term

''qualified joint and ⅔ survivor annuity'' means an annuity—

''(1) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of surviving individual (either the participant or the spouse) equal to 67 percent of the amount of the annuity which is payable to the participant while both the participant and the spouse are alive,

''(2) which is the actuarial equivalent of a single annuity for the life of the participant, and

''(3) which, for all other purposes of this title, is treated as a qualified joint and survivor annuity.''.

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 417(a)(3)(A) of such Code (relating to explanation of joint and survivor annuity) is amended to read as follows:

''(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and ⅔ survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 403. DIVISION OF PENSION BENEFITS UPON DIVORCE.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Subsection (p)(1) of section 414 of the Internal Revenue Code of 1986 is amended by adding the following new subparagraph:

''(C) DEEMED DOMESTIC RELATIONS ORDER UPON DIVORCE.—

''(i) IN GENERAL.—A divorce decree issued with respect to the participant and the former spouse pursuant to a State domestic relations law (including an annulment or other order of marital dissolution) shall, upon delivery to a plan along with the information required by paragraph (2)(A), be deemed by the plan to be a domestic relations order that specifies that 50 percent of the marital share of the participant's accrued benefit is to be provided to such former spouse, unless the divorce decree states that pension benefits were considered by the parties and no division is intended.

''(ii) MARITAL SHARE.—The marital share shall be the accrued benefit of the participant under the plan as of the date of the divorce (to the extent such accrued benefit is vested at the date of the divorce or any later date) multiplied by a fraction, the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

''(iii) INTERPRETATION AS QUALIFIED DOMESTIC RELATIONS ORDER.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies paragraphs (2) through (4) (and a copy of such rules shall be provided to such former spouse promptly after delivery of the divorce decree). Such rules—

''(I) may delay the effect of such an order until the earlier of the date the participant is fully vested or has terminated employment,

''(II) may allow the former spouse to be paid out immediately,

''(III) shall permit the former spouse to be paid not later than the earliest retirement age under the plan,

''(IV) may require the submitter of the divorce decree to present a marriage certificate or other evidence of the marriage date to assist in benefit calculations,

''(V) may require that a divorce decree be presented on the date which is not later than 2 years after the date of the issuance of the decree, and

''(VI) may conform to the rules applicable to qualified domestic relations orders regarding form or type of benefit.

''(iv) APPLICATION.—This subparagraph shall not apply to the extent that a qualified domestic relations order issued in connection with such divorce provides otherwise.''.

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subsection (d)(2)(B) of section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by adding the following new subclause (iii):

''(iii) DEEMED DOMESTIC RELATIONS ORDER UPON DIVORCE.—

''(I) IN GENERAL.—A divorce decree issued with respect to the participant and the former spouse pursuant to a State domestic relations law (including an annulment or other order of marital dissolution) shall, upon delivery to a plan along with the information required by subparagraph (C)(i), be deemed by the plan to be a domestic relations order that specifies that 50 percent of the marital share of the participant's accrued benefit is to be provided to such former spouse.

''(II) MARITAL SHARE.—The marital share shall be the accrued benefit of the participant under the plan as of the date of the divorce (to the extent such accrued benefit is vested at the date of the divorce or any later date) multiplied by a fraction, the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

''(III) INTERPRETATION AS QUALIFIED DOMESTIC RELATIONS ORDER.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies subparagraphs (C) through (E) (and a copy of such rules shall be provided to such former spouse promptly after delivery of the divorce decree). Such rules (aa) may delay the effect of such an order until the earlier of the date the participant is fully vested or has terminated employment, (bb) may allow the former spouse to be paid out immediately, and (cc) shall permit the spouse to be paid not later than the earliest retirement age under the plan.

''(IV) APPLICATION.—This subclause shall not apply to the extent that a qualified domestic relations order issued in connection with such divorce provides otherwise.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for divorce decrees issued after December 31, 1999.

SEC. 404. DEFERRED ANNUITIES FOR SURVIVING SPOUSES OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Section 8341 of title 5, United States Code, is amended—

(1) in subsection (h)(1), by striking ''section 8338(b) of this title'' and inserting ''section 8338(b), and a former spouse of a deceased former employee who separated from the service with title to a deferred annuity under section 8338 (if they were married to one another prior to the date of separation),''; and

(2) by adding at the end the following:

''(j)(1) If a former employee dies after having separated from the service with title to a deferred annuity under section 8338 but before having established a valid claim for annuity, and is survived by a spouse to whom married on the date of separation, the surviving spouse may elect to receive—

''(A) an annuity, commencing on what would have been the former employee's 62d birthday, equal to 55 percent of the former employee's deferred annuity;

''(B) an annuity, commencing on the day after the date of death of the former employee, such that, to the extent practicable, the present value of the future payments of the annuity would be actuarially equivalent to the present value of the future payments under subparagraph (A) as of the day after the former employee's death; or

''(C) the lump-sum credit, if the surviving spouse is the individual who would be entitled to the lump-sum credit and if such surviving spouse files application therefor.

''(2) An annuity under this subsection and the right thereto terminate on the last day of the month before the surviving spouse remarries before becoming 55 years of age, or dies.''.

(b) CORRESPONDING AMENDMENT FOR FERS.—Section 8445(a) of title 5, United States Code, is amended—

(1) by striking ''(or of a former employee or'' and inserting ''(or of a former''; and

(2) by striking ''annuity)'' and inserting ''annuity, or of a former employee who dies after having separated from the service with title to a deferred annuity under section 8413 but before having established a valid claim for annuity (if such former spouse was married to such former employee prior to the date of separation))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to surviving spouses and former spouses (whose marriage, in the case of the amendments made by subsection (a), terminated after May 6, 1985) of former employees who die after the date of the enactment of this Act.

SEC. 405. PAYMENT OF LUMP-SUM CREDIT FOR FORMER SPOUSES OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in section 8342(c), by striking ''Lump-sum'' and inserting ''Except as provided in section 8345(j), lump-sum'';

(2) in section 8345(j)—

(A) in paragraph (1), by inserting after ''that individual'' the following: '', or be made under section 8342(d) through (f) to an individual entitled under section 8342(c),''; and

(B) by adding at the end the following:

''(4) Any payment under this subsection to a person bars recovery by any other person.'';

(3) in section 8424(d), by striking ''Lump-sum'' and inserting ''Except as provided in section 8467(a), lump-sum''; and

(4) in section 8467—

(A) in subsection (a), by inserting after ''that individual'' the following: '', or be made under section 8424(e) through (g) to an individual entitled under section 8424(d),''; and

(B) by adding at the end the following:

''(d) Any payment under this section to a person bars recovery by any other person.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any death occurring after the 90th day after the date of the enactment of this Act.

SEC. 406. WOMEN'S PENSION TOLL-FREE PHONE NUMBER.

(a) IN GENERAL.—The Secretary of Labor shall contract with an independent organization to create a women's pension toll-free telephone number and contact to serve as—

(1) a resource for women on pension questions and issues;

(2) a source for referrals to appropriate agencies; and

(3) a source for printed information.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of the fiscal years 1997, 1998, 1999, and 2000.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

SEC. 501. DATE FOR ADOPTION OF PLAN AMENDMENTS.

(a) IN GENERAL.—Except as otherwise provided in this Act, if any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the last day of the first plan year beginning on or after January 1, 1998, if—

(1) during the period after such amendment takes effect and before the last day of 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.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

(b) GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subsection (a) shall be applied by substituting for ''January 1, 1998'' the later of—

(1) January 1, 1999, or

(2) the date which is 90 days after the opening of the first legislative session beginning after January 1, 1999, of the governing body with authority to amend the plan, but only if such governing body does not meet continuously.

(c) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—Nothwithstanding any other provision of this Act, in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, any amendment made by this Act which requires an amendment to such plan shall not be required to be made before the last day of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1998, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1999.

By Mr. DASCHLE (for himself, Mr. BIDEN, Mr. LEAHY, Mr. KOHL, Mr. BREAUX, Mr. FORD, Ms. MIKULSKI, Mr. DODD, Mr. DURBIN, Mr. KERRY, Mr. LEVIN, Ms. LANDRIEU, Mr. TORRICELLI, Ms. MOSELEY-BRAUN, Mr. GLENN, and Mr. ROCKEFELLER):

S. 15. A bill to control youth violence, crime, and drug abuse, and for other purposes; to the Committee on the Judiciary.

THE YOUTH VIOLENCE, CRIME AND DRUG ABUSE CONTROL ACT OF 1997

Mr. BIDEN. Mr. President, today I rise to introduce—along with Senator DASCHLE, Senator LEAHY, and many other Senators—legislation which will be a key cornerstone of the Senate Democrats anti-crime, anti-drug focus for the new Congress.

Our thrust is clear and straight-forward:

We must continue the successes of the 1994 Biden crime law.

And, at the same time, we must take up the new challenge of confronting crime and drug abuse among our youth with a commonsense strategy balancing tough sanctions, certain punishment and protecting literally millions of kids from the criminals and drug pushers who can target any kid from any family whose parents are at work when the school day ends.

We must continue the success of the 1994 crime law.

While I give the credit first and foremost to the police officers on our Nation's streets, the verdict from the FBI's national crime statistics is that since the 1994 crime law, violent crime is down and down significantly:

1996 is projected to have the lowest murder toll since 1988—and a murder rate that is lowest since 1971;

1996 is projected to have the lowest violent crime total since 1990; and

the murder rate for wives, ex-wives and girlfriends at the hands of their ''intimates'' fell to an 18-year low in 1994—and is lower still in 1995.

This is a record of success which should convince the Senate to extend the 1994 crime law.

Adding 25,000 more police by extending the 100,000 cops program for two more years.

Extending the Violence Against Women Act funding to shelter 400,000 more battered women and their children and continuing to help States arrest and prosecute batterers. Providing an additional $5 billion to build up to 80,000 more prison cells for violent criminals—we also propose to give States greater flexibility with these dollars to speed the prosecution of violent criminals and increase the use of drug testing. Provide $1 billion to extend such proven law enforcement programs as the Byrne anti-drug grants to State and local law enforcement. And, extend the crime law trust fund to fund all these initiatives from the cost-savings from downsizing the Federal Government—without increasing the Federal budget deficit.

The bottom line—this bill calls on the full Senate to continue the successes of the 1994 Biden crime law.

But, this legislation does not stop there. In the face of rising teen drug abuse and rising youth violence—despite some recent hopeful news—we must undertake a comprehensive effort to target these problems. This legislation offers just such a comprehensive effort:

First, we propose to reform the juvenile justice system to crack down on violent youth by:

Making some key changes to Federal law that respond to legitimate concerns which create the pressure to take the unwise step of prosecuting kids in our overburdened adult courts. Specifically, providing greater access to juveniles records and raising the mandatory release age for juveniles from 21 to 26—so juveniles will face up to 11 years in prison even if they are prosecuted as juveniles.

Providing $1 billion to help States build prisons for violent juveniles as well as additional prosecutors and other improvements to State juvenile justice systems (including certain, graduated punishment for first-time and minor juvenile offenders).

Creating special juvenile ''gun'' courts where juvenile gun offenders are tried and sentenced on an expedited basis.

These are essential to controlling juvenile crime because, as every mother knows, immediate and certain punishment is the key to disciplining kids.

Second, we must target one of the primary sources of youth violence—street gangs.

We propose aggressive steps to:

Target gang paraphernalia by boosting the penalties for criminals who arm themselves with bullet-proof body armor and deadly accurate laser-sighting devices. And, as Senator LEAHY has identified, we must make some commonsense reforms to speed law enforcement access to the numeric pagers so often used by youth gang criminals.

Create a new crime of interstate franchise spread of street gangs—a step which better targets Federal law enforcement resources than simply federalizing ever more State crimes and encroaching upon the State's traditional handling of juvenile crime.

Cracking down on street gangs also means that we should increase the penalties for witness intimidation, a favored tactic of criminal street gangs. This is a proposal outlined by the President just this weekend.

Third, we must redouble our efforts to treat and prevent youth drug abuse.

For the past several months, you have heard me modify one of the key arguments of the President's 1992 campaign by stating—''it's drugs, stupid, it's drugs.''

This statement is—unfortunately—necessary in the face of rising drug abuse among our children. While drug abuse among adults is holding steady, all the surveys tell us that more and more children are falling prey to drugs.

We propose a multi-prong response, because drugs need to be fought not only in our communities, but also in our scientific laboratories where important breakthroughs are being made into medicines to treat drug addiction—we propose additional funding for the Federal Medications Development Program and to provide incentives to the private sector to develop new medicines to treat heroin and cocaine addiction.

We must also expand drug courts to cover 50,000 children—a vast improvement on the no drug testing, no treatment, and no threat of punishment system which typifies too many juvenile courts today.

As I proposed last year, we must tighten controls on the club drug—ketamine—that is popular with too many children today.

Funding drug treatment for 600,000 drug-addicted children is also key—particularly as our Nation stands on the edge of a baby-boomerang wave that will mean more teenagers—and more teen addicts.

Reauthorizing the drug director's office as well as the Safe & Drug-Free Schools Program which is the core of Federal drug prevention efforts are two other necessary steps.

In addition, and in response to the recent passage of so-called medical marijuana initiatives, we seek a measure which should be supported even by their proponents—a simple study to determine if drug abuse among children rises in these two States.

Fourth, we call for a renewed effort to prevent youth violence.

No where has the crime policy debate been subject to more distortions and misunderstandings than on a goal all of us should share—let's prevent kids from getting involved in crime, violence and drugs in the first place.

To get past all the misunderstanding, we propose to call upon the prestigious, non-partisan National Academy of Sciences to answer the questions—can we prevent youth crime? And, if so, how do we do so in the most efficient way possible?

Let me repeat a challenge I offered last week—I will live by the results of this study, if those who oppose prevention efforts will as well. If the national academy says we can't figure out this task, so be it, I will not seek appropriations for any funds we authorize through this legislation. But, if the national academy of sciences says that we can, I challenge all to support full funding for these crime prevention efforts.

But, in the meantime, it seems to me that we do know at least one thing about preventing youth crime and drug abuse—my mom summarized what we know in the simple phrase used by mothers everywhere: ''Idle hands are the devil's workshop.''

This refers to the commonsense notion that if we can just get kids off the streets and into supervised programs during the after school hours when kids are likely to be the victims of gangs and criminals or the customers of drug pushers—if we can just do that simply thing, with boys and girls clubs or many other proven efforts, we can make important in-roads against drug abuse and crime among children.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 15

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 ''Youth Violence, Crime, and Drug Abuse Control Act of 1997''.

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

SEC. 2. DEFINITIONS.

In this Act—

(1) the term ''Attorney General'' means the Attorney General of the United States;

(2) the term ''Indian tribe'' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) the term ''juvenile'' has the meaning given that term under applicable State law;

(4) the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

(5) the term ''unit of local government'' means any city, county, township, borough, parish, or other entity exercising governmental power under State law;

(6) the term ''Violent Crime Reduction Trust Fund'' means the fund established under title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.); and

(7) the term ''youth'' means a person who is not younger than 5 and not older than 18 years of age.

TITLE I—CRIME CONTROL

Subtitle A—More Police Officers on the Beat

SEC. 101. MORE POLICE OFFICERS ON THE BEAT.

Section 1001(a)(11)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)(A)) is amended—

(1) in clause (v), by striking ''and'' at the end;

(2) in clause (vi), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(vii) $1,240,000,000 for fiscal year 2001; and

''(viii) $1,240,000,000 for fiscal year 2002.''.

SEC. 102. GRANTS FOR EQUIPMENT, TECHNOLOGY, AND SUPPORT SYSTEMS.

Section 1701(b)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended to read as follows:

''(A) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year.''.

SEC. 103. NATIONAL COMMUNITY POLICE TELECOMMUNICATIONS.

Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended by adding at the end the following:

''SEC. 1710. NATIONAL POLICE TELECOMMUNICATIONS.

''(a) FINDINGS.—Congress finds that—

''(1) police departments and sheriffs confirm that the 911 system is overloaded and that a large percentage of those calls are nonemergency calls;

''(2) many communities have seen increases in their 911 call volumes of between 40 percent and 50 percent annually;

''(3) police officers are forced to spend too much time responding to nonemergency situations, which eliminates time for proactive community policing; and

''(4) efforts to limit the use of 911 by using general telephone numbers and educating the public to reference a general number in the telephone book have been ineffective.

''(b) PURPOSE.—The purposes of this section are—

''(1) to encourage the Federal Communications Commission to reserve the 311 nonemergency number on a national basis for use by public safety agencies in responding to nonemergency police telephone calls; and

''(2) to establish a Federal assistance program to assist States and localities in establishing 311 nonemergency systems and to educate citizens in the use of 911 and 311.

''(c) AUTHORITY TO MAKE 311 NONEMERGENCY GRANTS.—The Attorney General, acting through the Director of the Office of Community Oriented Policing Services, may make grants to States, units of local governments, Indian tribal governments, other public and private entities, and multijurisdictional or regional consortia, to encourage the use of and to implement 311 nonemergency telecommunication systems for public safety.

''(d) GENERAL REGULATORY AUTHORITY.—The Attorney General may promulgate regulations and guidelines to carry out this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund to carry out this section—

''(1) such sums as may be necessary for each of the fiscal years 1998 through 2000; and

''(2) $10,000,000 in each of the fiscal years 2001 and 2002.''.

SEC. 104. TECHNICAL AMENDMENT.

Section 1001(a)(11)(B) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by striking ''150,000'' each place it appears and inserting ''100,000''.

Subtitle B—Violent Offender Incarceration and Truth-in-Sentencing Grants

SEC. 121. FORMULA ALLOCATIONS.

Section 20106 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706) is amended—

(1) in subsection (a)(1), by striking subparagraph (B) and inserting the following:

''(B) FORMULA ALLOCATION.—The amount remaining after application of subparagraph (A) shall be allocated as follows:

''(i) 0.75 percent shall be allocated to each State that meets the requirements of section 20103(b), except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, if eligible under section 20103(b), shall each be allocated 0.05 percent.

''(ii) The amount remaining after application of clause (i) shall be allocated to each State that meets the requirements of section 20103(b), in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, bears to the average annual number of part 1 violent crimes reported by all States that meet the requirements of section 20103(b) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.''; and

(2) by striking subsection (b) and inserting the following:

''(b) ALLOCATION OF TRUTH-IN-SENTENCING GRANTS UNDER SECTION 20104.—The amounts available for grants under section 20104 shall be allocated as follows:

''(1) FORMULA ALLOCATION.—0.75 percent shall be allocated to each State that meets the requirements of section 20104, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, if eligible under section 20104, shall each be allocated 0.05 percent.

''(2) ADDITIONAL ALLOCATION.—The amount remaining after application of paragraph (1) shall be allocated to each State that meets the requirements of section 20104, in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, bears to the average annual number of part 1 violent crimes reported by all States that meet the requirements of section 20103(b) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.''.

SEC. 122. EXTENSION OF VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANTS.

(a) VIOLENT OFFENDER INCARCERATION GRANTS.—Section 20108(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13708(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking ''and'' at the end;

(B) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(F) $2,750,000,000 for fiscal year 2001; and

''(G) $2,750,000,000 for fiscal year 2002.''; and

(2) in paragraph (2)(A), by striking ''fiscal year,'' and all that follows before the period and inserting the following: ''fiscal year distribute 45 percent for incarceration grants under section 20103, 45 percent for incentive grants under section 20104, and 10 percent for violent juvenile offender incarceration grants under section 214 of the Youth Violence, Crime, and Drug Abuse Control Act of 1997.''.

(b) TRUTH IN SENTENCING GRANTS.—Section 20102(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13702(a)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) for hiring professional staff to supervise violent offenders following release from custody and officers of the court to speed the prosecution of violent offenders.''.

Subtitle C—Domestic Violence

SEC. 131. EXTENSION OF VIOLENCE AGAINST WOMEN ACT.

(a) GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.—Section 1001(a)(18) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(18)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by inserting ''and'' at the end; and

(3) by adding at the end the following:

''(G) $174,000,000 for fiscal year 2001; and

''(H) $174,000,000 for fiscal year 2002.''.

(b) EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.—

(1) IN GENERAL.—Section 40151 of Public Law 103–322 (108 Stat. 1920) is amended by striking ''Health and Human Services'' and inserting ''Health Service''.

(2) AMENDMENT.—Section 1910A(c) of the Public Health Service Act is amended—

(A) in paragraph (4), by striking ''and'' at the end; and

(B) by adding at the end the following:
''(6) $45,000,000 for fiscal year 2001; and
''(7) $45,000,000 for fiscal year 2002.''.

(c) GRANT FOR NATIONAL DOMESTIC VIOLENCE HOTLINE.—Section 316(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10401) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by adding ''and'' at the end; and

(3) by adding at the end the following:
''(G) $500,000 for fiscal year 2001; and
''(H) $500,000 for fiscal year 2002.''.

(d) GRANTS FOR BATTERED WOMEN'S SHELTERS.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by adding ''and'' at the end; and

(3) by adding at the end the following:
''(6) $72,500,000 for fiscal year 2001; and
''(7) $72,500,000 for fiscal year 2002.''.

(e) VICTIMS OF CHILD ABUSE PROGRAMS.—Section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)) is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by adding ''and'' at the end; and

(3) by adding at the end the following:
''(6) $10,000,000 for fiscal year 2001; and
''(7) $10,000,000 for fiscal year 2002.''.

SEC. 132. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

Section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(b)) is amended by striking ''through fiscal year 1997'' and inserting ''or a State that has a population density of more than 60 percent (as defined by the Bureau of the Census of the Department of Commerce)''.

Subtitle D—Assistance to Local Law Enforcement

SEC. 141. EXTENSION OF LAW ENFORCEMENT FAMILY SUPPORT FUNDING.

Section 1001(a)(21) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(21)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(2) in subparagraph (D), as redesignated, by striking ''and'' at the end;

(3) in subparagraph (E), as redesignated, by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:
''(F) $7,500,000 for fiscal year 2001; and
''(G) $7,500,000 for fiscal year 2002.''.

SEC. 142. EXTENSION OF RURAL DRUG ENFORCEMENT AND TRAINING FUNDING.

(a) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(9)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:
''(F) $66,000,000 for fiscal year 2001; and
''(G) $66,000,000 for fiscal year 2002.''.

(b) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Section 18103(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14082(b)) is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:
''(6) $1,000,000 for fiscal year 2001; and
''(7) $1,000,000 for fiscal year 2002.''.

SEC. 143. EXTENSION OF DNA IDENTIFICATION GRANTS FUNDING.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating paragraphs (16) through (22) as paragraphs (12) through (17), respectively; and

(2) in paragraph (17), as redesignated—

(A) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(B) in subparagraph (D), as redesignated, by striking ''and'' at the end;

(C) in subparagraph (E), as redesignated, by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:
''(F) $17,500,000 for fiscal year 2001; and
''(G) $17,500,000 for fiscal year 2002.''.

SEC. 144. EXTENSION OF BYRNE GRANT FUNDING.

Section 210101 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2061) is amended—

(1) by striking ''through 2000'' and inserting ''through 2002'';

(2) in paragraph (5), by striking ''and'' at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:
''(7) $200,000,000 for fiscal year 2001; and
''(8) $200,000,000 for fiscal year 2002.''.

SEC. 145. EXTENSION OF TECHNICAL AUTOMATION GRANT FUNDING.

Section 210501(c) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14151(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking ''and'' at the end;

(B) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:
''(F) for fiscal year 2001, $24,000,000; and
''(G) for fiscal year 2002, $24,000,000;''; and

(2) in paragraph (2)—

(A) in subparagraph (D), by striking ''and'' at the end;

(B) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:
''(F) for fiscal year 2001, $6,000,000; and
''(G) for fiscal year 2002, $6,000,000; and''.

SEC. 146. EXTENSION OF GRANTS FOR STATE COURT PROSECUTORS.

Section 21602 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14161) is amended—

(1) in subsection (a)—

(A) by striking ''other criminal justice participants'' and inserting ''other criminal justice participants, in both the adult and juvenile systems,'';

(B) by striking ''this Act'' and all that follows before the period at the end of the section and inserting ''this Act, the Youth Violence, Crime, and Drug Abuse Control Act of 1997, and amendments thereto'';

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following:

''(d) Not less than 20 percent of the total amount appropriated to carry out this subtitle in each of the fiscal years 2001 and 2002 shall be made available for providing increased resources to State juvenile courts systems, juvenile prosecutors, juvenile public defenders, and other juvenile court system participants.'';

(4) in subsection (e)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the comma at the end and inserting a semicolon; and

(C) by inserting immediately after paragraph (5) the following:
''(6) $250,000,000 for fiscal year 2001; and
''(7) $250,000,000 for fiscal year 2002,''.

TITLE II—YOUTH VIOLENCE CONTROL

Subtitle A—Federal Juvenile Prosecutions

SEC. 201. INCREASED DETENTION, MANDATORY RESTITUTION, AND ADDITIONAL SENTENCING OPTIONS FOR YOUTH OFFENDERS.

Section 5037 of title 18, United States Code, is amended to read as follows:

''§ 5037. Dispositional hearing

''(a) IN GENERAL.—

''(1) HEARING.—In a proceeding under section 5032(a), if the court finds a juvenile to be a juvenile delinquent, the court shall hold a hearing concerning the appropriate disposition of the juvenile not later than 20 court days after the finding of juvenile delinquency unless the court has ordered further study pursuant to subsection (e).

''(2) REPORT.—A predisposition report shall be prepared by the probation officer who shall promptly provide a copy to the juvenile, the attorney for the juvenile, and the attorney for the government.

''(3) VICTIM IMPACT INFORMATION.—Victim impact information shall be included in the report, and victims, or in appropriate cases their official representatives, shall be provided the opportunity to make a statement to the court in person or present any information in relation to the disposition.

''(4) ORDER OF RESTITUTION.—After the dispositional hearing, and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to 994, of title 28, the court shall enter an order of restitution pursuant to section 3556, and may suspend the findings of juvenile delinquency, place the juvenile on probation, commit the juvenile to official detention (including the possibility of a term of supervised release), and impose any fine that would be authorized if the juvenile had been tried and convicted as an adult.

''(5) RELEASE OR DETENTION.—With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of chapter 207.

''(b) TERM OF PROBATION.—The term for which probation may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond the maximum term that would be authorized by section 3561(c) if the juvenile had been tried and convicted as an adult. Sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.

''(c) TERM OF OFFICIAL DETENTION.—

''(1) MAXIMUM TERM.—The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond the lesser of—

''(A) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult;

''(B) 10 years; or

''(C) the date on which the juvenile achieves the age of 26.

''(2) APPLICABILITY OF OTHER PROVISIONS.—Section 3624 shall apply to an order placing a juvenile in detention.

''(d) TERM OF SUPERVISED RELEASE.—The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond 5 years. Subsections (c) through (i) of section 3583 shall apply to an order placing a juvenile on supervised release.

''(e) CUSTODY OF ATTORNEY GENERAL.—

''(1) IN GENERAL.—If the court desires more detailed information concerning a juvenile alleged to have committed an act of juvenile delinquency or a juvenile adjudicated delinquent, it may commit the juvenile, after notice and hearing at which the juvenile is represented by an attorney, to the custody of the Attorney General for observation and study by an appropriate agency or entity.

''(2) OUTPATIENT BASIS.—Any observation and study pursuant to a commission under paragraph (1) shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are necessary to obtain the desired information, except that in the case of an alleged juvenile delinquent, inpatient study may be ordered with the consent of the juvenile and the attorney for the juvenile.

''(3) CONTENTS OF STUDY.—The agency or entity conducting an observation or study under this subsection shall make a complete study of the alleged or adjudicated delinquent to ascertain the personal traits, capabilities, background, any prior delinquency or criminal experience, any mental or physical defect, and any other relevant factors pertaining to the juvenile.

''(4) SUBMISSION OF RESULTS.—The Attorney General shall submit to the court and the attorneys for the juvenile and the government the results of the study not later than 30 days after the commitment of the juvenile, unless the court grants additional time.

''(5) EXCLUSION OF TIME.—Any time spent in custody under this subsection shall be excluded for purposes of section 5036.

''(f) CONVICTION AS ADULT.—With respect to any juvenile prosecuted and convicted as an adult under section 5032(c), the court may, pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28, determine to treat the conviction as an adjudication of delinquency and impose any disposition authorized under this section. The United States Sentencing Commission shall promulgate such guidelines as soon as practicable and not later than 1 year after the date of enactment of this Act.''.

SEC. 202. ACCESS TO RECORDS.

Section 5038 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking the language preceding the colon and inserting the following:

''Throughout and upon completion of the juvenile delinquency proceeding, the court records of the original proceeding shall be safeguarded from disclosure to unauthorized persons. The records shall be released to the extent necessary to meet the following circumstances''; and

(B) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) inquiries from any victim of such juvenile delinquency, or in appropriate cases with the attorney for the victim, or, if the victim is deceased, from the immediate family of such victim in order to apprise such person of the status or disposition of the proceeding;'';

(2) by striking subsections (d) and (f) and redesignating subsection (e) as subsection (d); and

(3) by adding at the end the following:

''(e) RECORDS AND INFORMATION.—If a juvenile has been adjudicated delinquent for an act that, if committed by an adult, would be a felony or for a violation of section 922(x)—

''(1) the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation;

''(2) the court shall transmit to the Federal Bureau of Investigation the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication; and

''(3) access to the fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, shall be restricted as prescribed by subsection (a).''.

SEC. 203. REINSTITUTING DISMISSED CASES.

Section 5036 of title 18, United States Code, is amended by striking the last sentence and inserting the following: ''In determining whether an information should be dismissed with or without prejudice, the court shall consider the seriousness of the offense, the facts and circumstances of the case that led to the dismissal, and the impact of a reprosecution on the administration of justice.''.

Subtitle B—Assistance to States for Prosecuting and Punishing Youth Offenders

SEC. 214. JUVENILE AND VIOLENT OFFENDER INCARCERATION GRANTS.

(a) GRANTS FOR VIOLENT AND CHRONIC JUVENILE FACILITIES.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''colocated facility'' means the location of adult and juvenile facilities on the same property consistent with regulations issued by the Attorney General to ensure that adults and juveniles are substantially segregated;

(B) the term ''substantially segregated'' means—

(i) complete sight and sound separation in residential confinement;

(ii) use of shared direct care and management staff, properly trained and certified by the State to interact with juvenile offenders, if the staff does not interact with adult and juvenile offenders during the same shift; and

(iii) incidental contact during transportation to court proceedings and other activities in accordance with regulations issued by the Attorney General to ensure reasonable efforts are made to segregate adults and juveniles;

(C) the term ''violent juvenile offender'' means a person under the age of majority pursuant to State law that has been adjudicated delinquent or convicted in adult court of a violent felony as defined in section 924(e)(2)(B) of title 18, United States Code; and

(D) the term ''qualifying State'' means a State that has submitted, or a State in which an eligible unit of local government has submitted, a grant application that meets the requirements of paragraphs (3) and (5).

(2) AUTHORITY.—

(A) IN GENERAL.—The Attorney General may make grants in accordance with this subsection to States, units of local government, or any combination thereof, to assist them in planning, establishing, and operating secure facilities, staff-secure facilities, detention centers, and other correctional programs for violent juvenile offenders.

(B) USE OF AMOUNTS.—Grants under this subsection may be used—

(i) for colocated facilities for adult prisoners and violent juvenile offenders; and

(ii) only for the construction or operation of facilities in which violent juvenile offenders are substantially segregated from nonviolent juvenile offenders.

(3) APPLICATIONS.—

(A) IN GENERAL.—The chief executive officer of a State or unit of local government that seeks to receive a grant under this subsection shall submit to the Attorney General an application, in such form and in such manner as the Attorney General may prescribe.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall provide written assurances that each facility or program funded with a grant under this subsection—

(i) will provide appropriate educational and vocational training, a program of substance abuse testing, and substance abuse treatment for appropriate juvenile offenders; and

(ii) will afford juvenile offenders intensive post-release supervision and services.

(4) MINIMUM AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each qualifying State, together with units of local government within the State, shall be allocated for each fiscal year not less than 1.0 percent of the total amount made available in each fiscal year for grants under this subsection.

(B) EXCEPTION.—The United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.2 percent of the total amount made available in each fiscal year for grants under this subsection.

(5) PERFORMANCE EVALUATION.—

(A) EVALUATION COMPONENTS.—

(i) IN GENERAL.—Each facility or program funded under this subsection shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(ii) OUTCOME MEASURES.—The evaluations required by this subsection shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism, and other outcome measures.

(B) PERIODIC REVIEW AND REPORTS.—

(i) REVIEW.—The Attorney General shall review the performance of each grant recipient under this subsection.

(ii) REPORTS.—The Attorney General may require a grant recipient to submit to the Office of Justice Programs, Corrections Programs Office the results of the evaluations required under subparagraph (A) and such other data and information as are reasonably necessary to carry out the responsibilities of the Attorney General under this subsection.

(6) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General shall provide technical assistance and training to grant recipients under this subsection to achieve the purposes of this subsection.

(b) JUVENILE FACILITIES ON TRIBAL LANDS.—

(1) RESERVATION OF FUNDS.—Of amounts made available to carry out section 214 of this Act under section 20108(a)(2)(A) of the Violent Crime Control and Law Enforcement Act of 1994, the Attorney General shall reserve, to carry out this subsection, 0.75 percent for each of the fiscal years 1998 through 2002.

(2) GRANTS TO INDIAN TRIBES.—Of amounts reserved under paragraph (1), the Attorney General may make grants to Indian tribes or to regional groups of Indian tribes for the purpose of constructing secure facilities, staff-secure facilities, detention centers, and other correctional programs for incarceration of juvenile offenders subject to tribal jurisdiction.

(3) APPLICATIONS.—To be eligible to receive a grant under this section, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

(4) REGIONAL GROUPS.—Individual Indian tribes from a geographic region may apply for grants under paragraph (2) jointly for the purpose of building regional facilities.

(c) REPORT ON ACCOUNTABILITY AND PERFORMANCE MEASURES IN JUVENILE CORRECTIONS PROGRAMS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall, after consultation with the National Institute of Justice and other appropriate governmental and nongovernmental organizations, submit to Congress a report regarding the possible use of performance-based criteria in evaluating and improving the effectiveness of juvenile corrections facilities and programs.

(2) CONTENTS.—The report required under this subsection shall include an analysis of—

(A) the range of performance-based measures that might be utilized as evaluation criteria, including measures of recidivism among juveniles who have been incarcerated in facilities or have participated in correctional programs;

(B) the feasibility of linking Federal juvenile corrections funding to the satisfaction of performance-based criteria by grantees (including the use of a Federal matching mechanism under which the share of Federal funding would vary in relation to the performance of a program or facility);

(C) whether, and to what extent, the data necessary for the Attorney General to utilize performance-based criteria in the Attorney General's administration of juvenile corrections programs are collected and reported nationally; and

(D) the estimated cost and feasibility of establishing minimal, uniform data collection and reporting standards nationwide that would allow for the use of performance-based criteria in evaluating juvenile corrections programs and facilities and administering Federal juvenile corrections funds.

SEC. 215. CERTAIN PUNISHMENT AND GRADUATED SANCTIONS FOR YOUTH OFFENDERS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) youth violence constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent youth violence;

(B) the behavior of youth who become violent offenders often follow a progression, beginning with aggressive behavior in school, truancy, and vandalism, leading to property crimes and then serious violent offenses;

(C) the juvenile justice systems in most States are ill-equipped to provide meaningful sanctions to minor, nonviolent offenders because most of their resources are dedicated to dealing with more serious offenders;

(D) in most States, some youth commit multiple, nonviolent offenses without facing any significant criminal sanction;

(E) the failure to provide meaningful criminal sanctions for first time, nonviolent offenders sends the false message to youth that they can engage in antisocial behavior without suffering any negative consequences and that society is unwilling or unable to restrain that behavior;

(F) studies demonstrate that interventions during the early stages of a criminal career can halt the progression to more serious, violent behavior; and

(G) juvenile courts need access to a range of sentencing options so that at least some level of sanction is imposed on all youth offenders, including status offenders, and the severity of the sanctions increase along with the seriousness of the offense.

(2) PURPOSES.—The purposes of this section are to provide assistance to State and local juvenile courts to expand the range of sentencing options for first time, nonviolent offenders and to provide a selection of graduated sanctions for more serious offenses.

(b) DEFINITIONS.—In this section—

(1) the term ''first time offender'' means a juvenile against whom formal charges have not previously been filed in any Federal or State judicial proceeding;

(2) the term ''nonviolent offender'' means a juvenile who is charged with an offense that does not involve the use of force against the person of another; and

(3) the term ''status offender'' means a juvenile who is charged with an offense that would not be criminal if committed by an adult (other than an offense that constitutes a violation of a valid court order or a violation of section 922(x) of title 18, United States Code (or similar State law)).

(c) GRANT AUTHORIZATION.—

(1) IN GENERAL.—The Attorney General may make grants in accordance with this section to States, State courts, local courts, units of local government, and Indian tribes, for the purposes of—

(A) providing juvenile courts with a range of sentencing options such that first time juvenile offenders, including status offenders such as truants, vandals, and juveniles in violation of State or local curfew laws, face at least some level of punishment as a result of their initial contact with the juvenile justice system; and

(B) increasing the sentencing options available to juvenile court judges so that juvenile offenders receive increasingly severe sanctions—

(i) as the seriousness of their unlawful conduct increases; and

(ii) for each additional offense.

(c) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief executive of a State, unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this section;

(B) a description of the communities to be served by the grant, including the extent of youth crime and violence in those communities;

(C) written assurances that Federal funds received under this subtitle will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection;

(D) a comprehensive plan described in paragraph (3) (in this section referred to as the ''comprehensive plan''); and

(E) any additional information in such form and containing such information as the Attorney General may reasonably require.

(3) IMPLEMENTATION PLAN.—For purposes of paragraph (2), a comprehensive plan shall include—

(A) an action plan outlining the manner in which the applicant will achieve the purposes described in subsection (c)(1);

(B) a description of any resources available in the jurisdiction of the applicant to implement the action plan described in subparagraph (A);

(C) an estimate of the costs of full implementation of the plan; and

(D) a plan for evaluating the impact of the grant on the jurisdiction's juvenile justice system.

(e) GRANT AWARDS.—

(1) CONSIDERATIONS.—In awarding grants under this section, the Attorney General shall consider—

(A) the ability of the applicant to provide the stated services;

(B) the level of youth crime, violence, and drug use in the community; and

(C) to the extent practicable, achievement of an equitable geographic distribution of the grant awards.

(2) ALLOCATIONS.—

(A) IN GENERAL.—The Attorney General shall allot not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to applicants in each State from which applicants have applied for grants under this section.

(B) INDIAN TRIBES.—The Attorney General shall allocate not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to Indian tribes.

(f) USE OF GRANT AMOUNTS.—

(1) IN GENERAL.—Each grant made under this section shall be used to establish programs that—

(A) expand the number of judges, prosecutors, and public defenders for the purpose of imposing sanctions on first time juvenile offenders and status offenders;

(B) provide expanded sentencing options, such as restitution, community service, drug testing and treatment, mandatory job training, curfews, house arrest, mandatory work projects, and boot camps, for status offenders and nonviolent offenders;

(C) increase staffing for probation officers to supervise status offenders and nonviolent offenders to ensure that sanctions are enforced;

(D) provide aftercare and supervision for status and nonviolent offenders, such as drug education and drug treatment, vocational training, job placement, and family counseling;

(E) encourage private sector employees to provide training and work opportunities for status offenders and nonviolent offenders; and

(F) provide services and interventions for status and nonviolent offenders designed, in tandem with criminal sanctions, to reduce the likelihood of further criminal behavior.

(2) PROHIBITION ON USE OF AMOUNTS.—

(A) DEFINITIONS.—In this paragraph—

(i) the term ''alien'' has the same meaning as in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)); and

(ii) the terms ''secure detention facility'' and ''secure correctional facility'' have the same meanings as in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603).

(B) PROHIBITION.—No amounts made available under this subtitle may be used for any program that permits the placement of status offenders, alien juveniles in custody, or nonoffender juveniles (such as dependent or neglected children) in secure detention facilities or secure correctional facilities.

(g) GRANT LIMITATIONS.—Not more than 3 percent of the amounts made available to the Attorney General or a grant recipient under this section may be used for administrative purposes.

(h) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Federal share of a grant made under this subtitle may not exceed 90 percent of the total estimated costs of the program described in the comprehensive plan submitted under subsection (d)(3) for the fiscal year for which the program receives assistance under this section.

(2) WAIVER.—The Attorney General may waive, in whole or in part, the requirements of paragraph (1).

(3) IN-KIND CONTRIBUTIONS.—For purposes of paragraph (1), in-kind contributions may constitute any portion of the non-Federal share of a grant under this section.

(i) REPORT AND EVALUATION.—

(1) REPORT TO THE ATTORNEY GENERAL.—Not later than October 1, 1998, and October 1 of each year thereafter, each grant recipient

under this section shall submit to the Attorney General a report that describes, for the year to which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient.

(2) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1, 1999, and March 1 of each year thereafter, the Attorney General shall submit to the Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this section, and an evaluation of programs established by grant recipients under this section.

(3) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this section, the Attorney General shall consider—

(A) a comparison between the number of first time offenders who received a sanction for criminal behavior in the jurisdiction of the grant recipient before and after initiation of the program;

(B) changes in the recidivism rate for first time offenders in the jurisdiction of the grant recipient;

(C) a comparison of the recidivism rates and the seriousness of future offenses of first time offenders in the jurisdiction of the grant recipient that receive a sanction and those who do not;

(D) changes in truancy rates of the public schools in the jurisdiction of the grant recipient; and

(E) changes in the arrest rates for vandalism and other property crimes in the jurisdiction of the grant recipient.

(4) DOCUMENTS AND INFORMATION.—Each grant recipient under this section shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of the fiscal years 1998 and 1999; and

(2) $175,000,000 for each of the fiscal years 2000 and 2001.

Subtitle C—Juvenile Gun Courts

SEC. 221. DEFINITIONS.

In this subtitle—

(1) the term ''firearm'' has the same meaning as in section 921 of title 18, United States Code;

(2) the term ''firearm offender'' means any individual charged with an offense involving the illegal possession, use, transfer, or threatened use of a firearm; and

(3) the term ''local court'' means any section or division of a State or municipal juvenile court system; and

(4) the term ''juvenile gun court'' means a specialized division within a State or local juvenile court system, or a specialized docket within a State or local court that considers exclusively cases involving juvenile firearm offenders.

SEC. 222. GRANT PROGRAM.

The Attorney General may provide grants in accordance with this subtitle to States, State courts, local courts, units of local government, and Indian tribes for court-based juvenile justice programs that target juvenile firearm offenders through the establishment of juvenile gun courts.

SEC. 223. APPLICATIONS.

(a) ELIGIBILITY.—In order to be eligible to receive a grant under this subtitle, the chief executive of a State, unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) REQUIREMENTS.—Each application submitted in accordance with subsection (a) shall include—

(1) a request for a grant to be used for the purposes described in this subtitle;

(2) a description of the communities to be served by the grant, including the extent of juvenile crime, juvenile violence, and juvenile firearm use and possession in such communities;

(3) written assurances that Federal funds received under this subtitle will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection;

(4) a comprehensive plan described in subsection (c) (hereafter in this subtitle referred to as the ''comprehensive plan''); and

(5) any additional information in such form and containing such information as the Attorney General may reasonably require.

(c) COMPREHENSIVE PLAN.—For purposes of subsection (b), a comprehensive plan is described in this subsection it includes—

(1) a description of the juvenile crime and violence problems in the jurisdiction of the applicant, including gang crime and juvenile firearm use and possession;

(2) an action plan outlining the manner in which the applicant would use the grant amounts in accordance with this subtitle;

(3) a description of any resources available in the jurisdiction of the applicant to implement the action plan described in paragraph (2); and

(4) a description of the plan of the applicant for evaluating the performance of the juvenile gun court.

SEC. 224. GRANT AWARDS.

(a) CONSIDERATIONS.—In awarding grants under this subtitle, the Attorney General shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the level of juvenile crime, violence, and drug use in the community; and

(3) to the extent practicable, achievement of an equitable geographic distribution of the grant awards.

(b) DIVERSITY.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this subtitle to applicants in each State from which applicants have applied for grants under this subtitle.

(c) INDIAN TRIBES.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

SEC. 225. USE OF GRANT AMOUNTS.

Each grant made under this subtitle shall be used—

(1) to establish juvenile gun courts for adjudication of juvenile firearm offenders;

(2) to grant prosecutorial discretion to try, in a gun court, cases involving the illegal possession, use, transfer, or threatened use of a firearm by a juvenile;

(3) to require prosecutors to transfer such cases to the gun court calendar not later than 30 days after arraignment;

(4) to require that gun court trials commence not later than 60 days after transfer to the gun court;

(5) to facilitate innovative and individualized sentencing (such as incarceration, house arrest, victim impact classes, electronic monitoring, restitution, and gang prevention programs);

(6) to provide services in furtherance of paragraph (5);

(7) to limit grounds for continuances and grant continuances only for the shortest practicable time;

(8) to ensure that any term of probation or supervised release imposed on a firearm offender in a juvenile gun court, in addition to, or in lieu of, a term of incarceration, shall include a prohibition on firearm possession during such probation or supervised release and that violation of that prohibition shall result in, to the maximum extent permitted under State law, a term of incarceration; and

(9) to allow transfer of a case or an offender out of the gun court by agreement of the parties, subject to court approval.

SEC. 226. GRANT LIMITATIONS.

Not more than 5 percent of the amounts made available to the Attorney General or a grant recipient under this subtitle may be used for administrative purposes.

SEC. 227. FEDERAL SHARE.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Federal share of a grant made under this subtitle may not exceed 90 percent of the total cost of the program or programs of the grant recipient that are funded by that grant for the fiscal year for which the program receives assistance under this subtitle.

(b) WAIVER.—The Attorney General may waive, in whole or in part, the requirements of subsection (a).

(c) IN-KIND CONTRIBUTIONS.—For purposes of subsection (a), in-kind contributions may constitute any portion of the non-Federal share of a grant under this subtitle.

(d) CONTINUED AVAILABILITY OF GRANT AMOUNTS.—Any amount provided to a grant recipient under this subtitle shall remain available until expended.

SEC. 228. REPORT AND EVALUATION.

(a) REPORT TO THE ATTORNEY GENERAL.—Not later than March 1, 1998, and March 1 of each year thereafter, each grant recipient under this subtitle shall submit to the Attorney General a report that describes, for the year to which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient.

(b) EVALUATION AND REPORT TO CONGRESS.—Not later than October 1, 1998, and October 1 of each year thereafter, the Attorney General shall submit to the Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this subtitle, and an evaluation of programs established by grant recipients under this subtitle.

(c) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this subtitle, the Attorney General shall consider—

(1) the number of juveniles tried in gun court sessions in the jurisdiction of the grant recipient;

(2) a comparison of the amount of time between the filing of charges and ultimate disposition in gun court and nongun court cases;

(3) the recidivism rates of juvenile offenders tried in gun court sessions in the jurisdiction of the grant recipient in comparison to those tried outside of drug courts;

(4) changes in the amount of gun-related and gang-related crime in the jurisdiction of the grant recipient; and

(5) the quantity of firearms and ammunition recovered in gun court cases in the jurisdiction of the grant recipient.

(d) DOCUMENTS AND INFORMATION.—Each grant recipient under this subtitle shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this subtitle.

SEC. 229. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of the fiscal years 1998, 1999, and 2000;

(2) $50,000,000 for fiscal year 2001; and

(3) $50,000,000 for fiscal year 2002.

Subtitle D—Gang Violence Reduction

PART 1—ENHANCED PENALTIES FOR GANG-RELATED ACTIVITIES

SEC. 241. GANG FRANCHISING.

(a) IN GENERAL.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

''SEC. 522. INTERSTATE FRANCHISING OF CRIMINAL STREET GANGS.

''(a) PROHIBITED ACT.—Whoever travels in interstate or foreign commerce, or causes another to do so, to recruit, solicit, induce, command, or cause to create, or attempt to create a franchise of a criminal street gang shall be punished in accordance with subsection (c).

''(b) DEFINITIONS.—

''(1) CRIMINAL STREET GANG.—The term 'criminal street gang' has the meaning given that term in section 521 of title 18, United States Code.

''(2) FRANCHISE.—The term 'franchise' means an organized group of individuals related by name, moniker, or other identifier, that engages in coordinated violent crime or drug trafficking activities in interstate or foreign commerce with a criminal street gang in another State.

''(c) PENALTIES.—A person who violates subsection (a) shall be imprisoned for not more than 10 years, fined under this title, or both.

''(d) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement for the recruitment of minors in furtherance of the creation of a criminal street gang franchise.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

''522. Interstate franchising of criminal street gangs.''.

SEC. 242. GANG FRANCHISING AS A RICO PREDICATE.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking ''or'' before ''(F)''; and

(2) by inserting '', or (G) an offense under section 522 of this title'' before the semicolon at the end.

SEC. 243. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS GANG MEMBER.

(a) DEFINITION OF CRIMINAL STREET GANG.—In this section, the term ''criminal street gang'' has the same meaning as in section 521(a) of title 18, United States Code.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement with respect to any offense committed in connection with, or in furtherance of, the activities of a criminal street gang if the defendant is a member of the criminal street gang at the time of the offense.

(c) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 244. INCREASING THE PENALTY FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.

Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''as provided in paragraph (2)'' and inserting ''as provided in paragraph (3)'';

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

''(2) Whoever uses physical force or the threat of physical force, or attempts to do so, with intent to—

''(A) influence, delay, or prevent the testimony of any person in an official proceeding;

''(B) cause or induce any person to—

''(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

''(ii) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

''(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; and

''(iv) be absent from an official proceeding to which such person has been summoned by legal process; or

''(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).''; and

(D) in paragraph (3)(B), as redesignated, by striking ''in the case of'' and all that follows before the period and inserting ''an attempt to murder, the use of physical force, the threat of physical force, or an attempt to do so, imprisonment for not more than 20 years''; and

(2) in subsection (b), by striking ''or physical force''.

SEC. 245. POSSESSION OF FIREARMS IN RELATION TO COUNTS OF VIOLENCE OR DRUG TRAFFICKING CRIMES.

(a) IN GENERAL.—Sections 924(c)(1) and 929(a)(1) of title 18, United States Code, are each amended—

(1) by striking ''in relation to'' and inserting ''in close proximity to''; and

(2) by striking ''uses or carries'' and inserting ''possesses''.

(b) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—

(1) DEFINITIONS.—In this subsection, the terms ''crime of violence'' and ''drug trafficking crime'' have the same meanings as in section 924(c) of title 18, United States Code.

(2) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentence enhancement with respect to any defendant who discharges a firearm during or in close proximity to any crime of violence or any drug trafficking crime.

(3) CONSISTENCY.—In carrying out this subsection, the United States Sentencing Commission shall—

(A) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(B) avoid duplicative punishment for substantially the same offense.

SEC. 246. INCREASED PENALTY FOR TRANSFERRING A FIREARM TO A MINOR FOR USE IN A CRIME.

Section 924(h) of title 18, United States Code, is amended by inserting ''except if the transferee is a person who is less than 18 years of age, not more than 15 years,'' before ''fined in accordance with this title, or both''.

SEC. 247. ELIMINATION OF STATUTE OF LIMITATIONS FOR MURDER.

(a) IN GENERAL.—Section 3281 of title 18, United States Code, is amended to read as follows:

''§ 3281. Capital offenses and Class A felonies involving murder

''An indictment for any offense punishable by death or an indictment or information for a Class A felony involving murder (as defined in section 1111 or as defined under applicable State law in the case of an offense under section 1963(a) involving racketeering activity described in section 1961(1)) may be found at any time without limitation.''.

(b) APPLICABILITY.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

SEC. 248. EXTENSION OF STATUTE OF LIMITATIONS FOR VIOLENT AND DRUG TRAFFICKING CRIMES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3295. Class A violent and drug trafficking offenses

''Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or a drug trafficking crime (as that term is defined in section 924(c)) unless the indictment is returned or the information is filed within 10 years after the commission of the offense.''.

(b) APPLICABILITY.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

(c) CONFORMING AMENDMENTS.—The chapter analysis for chapter 213 of title 18, United States Code, is amended—

(1) in the item relating to section 3281, by inserting ''and Class A felonies involving murder'' before the period; and

(2) by adding at the end the following:

''3295. Class A violent and drug trafficking offenses.''.

PART 2—GANG PARAPHERNALIA

SEC. 251. ENHANCING LAW ENFORCEMENT ACCESS TO CLONE NUMERIC PAGERS.

(a) AMENDMENT TO CHAPTER 206.—Chapter 206 of title 18, United States Code, is amended—

(1) in the chapter heading, by striking ''AND TRAP AND TRACE DEVICES'' and inserting: ''TRAP AND TRACE DEVICES, AND CLONE NUMERIC PAGERS'';

(2) in the chapter analysis—

(A) by striking ''and trap and trace device'' each place that term appears and inserting ''trap and trace device, and clone pager''; and

(B) by striking ''or a trap and trace device'' each place that term appears and inserting '', a trap and trace device, or a clone pager'';

(3) in section 3121—

(A) in the section heading, by striking ''**AND TRAP AND TRACE DEVICE**'' and inserting ''**, TRAP AND TRACE DEVICE, AND CLONE PAGER**''; and

(B) by striking ''or a trap and trace device'' each place that term appears and inserting '', a trap and trace device, or a clone pager'';

(4) in section 3122—

(A) in the section heading, by striking ''**OR A TRAP AND TRACE DEVICE**'' and inserting ''**, A TRAP AND TRACE DEVICE, OR A CLONE PAGER**''; and

(B) by striking ''or a trap and trace device'' each place that term appears and inserting '', a trap and trace device, or a clone pager'';

(5) in section 3123—

(A) in the section heading, by striking ''**OR A TRAP AND TRACE DEVICE**'' and inserting ''**, A TRAP AND TRACE DEVICE, OR A CLONE PAGER**'';

(B) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—Upon an application made under section 3122 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court, or of a clone pager the service provider for which is within the jurisdiction of the court, if the court finds, upon a showing by certification of the attorney for the Government or the State law enforcement or investigative officer, that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.'';

(C) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A), by inserting before the semicolon the following: '', or in the case of a clone pager, the identity, if known, of the person to whom is leased, or who is the subscriber of the paging device communications to which will be intercepted by the clone pager''; and

(II) in subparagraph (C), by inserting before the semicolon the following: '', or in the case of a clone pager, the number of the paging device to which the clone pager is identically programmed''; and

(ii) in paragraph (2), by striking ''or trap and trace device'' and inserting ''trap and trace device, or a clone pager''; and

(D) in subsection (c), by striking ''or trap and trace device'' and inserting ''trap and trace device, or a clone pager''; and

(E) in subsection (d)—

(i) in the subsection heading, by striking ''OR TRAP AND TRACE DEVICE'' and inserting '', TRAP AND TRACE DEVICE, OR CLONE PAGER''; and

(ii) in paragraph (2), by inserting ''or the paging device, communications to which will be intercepted by the clone pager,'' after ''attached,'';

(6) in section 3124—

(A) in the section heading, by striking ''**OR A TRAP AND TRACE DEVICE**'' and inserting ''**, A TRAP AND TRACE DEVICE, OR A CLONE PAGER**'';

(B) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(C) by inserting after subsection (b) the following:

''(c) CLONE PAGER.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to acquire and use a clone pager under this chapter, a Federal court may order, in accordance with section 3123(b)(2), a provider of a paging service or other person to furnish to such investigative or law enforcement officer, all information, facilities, and technical assistance necessary to accomplish the operation and use of a clone pager unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the programming and use is to take place.'';

(7) in section 3125—

(A) in the section heading, by striking ''**AND TRAP AND TRACE DEVICE**'' and inserting ''**, TRAP AND TRACE DEVICE, AND CLONE PAGER**''; and

(B) in subsection (a)—

(i) by striking ''or trap and trace device'' and inserting '', a trap and trace device, or a clone pager'';

(ii) by striking the quotation marks at the end; and

(iii) by striking ''or trap and trace device'' each place that term appears and inserting '', trap and trace device, or clone pager'';

(8) in section 3126—

(A) in the section heading, by striking ''**AND TRAP AND TRACE DEVICES**'' and inserting ''**, TRAP AND TRACE DEVICES, AND CLONE PAGERS**''; and

(B) by inserting ''or clone pagers'' after ''devices''; and

(9) in section 3127—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) the term 'clone pager' means a numeric display device that receives transmissions intended for another numeric display paging device.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2511(2)(H) of title 18, United States Code, is amended by striking clause (i) and inserting the following:

''(i) to use a pen register, a trap and trace device, or a clone pager (as those terms are defined for the purposes of chapter 206 (relating to pen registers, trap and trace devices, and clone pagers) of this title); or''.

(2) Section 2510(12) of title 18, United States Code, is amended—

(A) in subparagraph (B), by striking ''or'' at the end; and

(B) by inserting after subparagraph (C) the following: ''or

''(D) any transmission made through a clone pager (as defined in section 3127(5) of this title).''.

SEC. 252. PROHIBITIONS RELATING TO BODY ARMOR.

(a) DEFINITIONS.—In this section—

(1) the term ''body armor'' means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

(2) the term ''law enforcement officer'' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant used body armor.

(c) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

(d) APPLICABILITY.—No Federal sentencing guideline amendment made under this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 253. PROHIBITIONS RELATING TO LASER SIGHTING DEVICES.

(a) DEFINITIONS.—In this section—

(1) the term ''firearm'' has the same meaning as in section 921 of title 18, United States Code; and

(2) the term ''laser-sighting device'' includes any device designed to be attached to a firearm that uses technology, such as laser sighting, red-dot-sighting, night sighting, telescopic sighting, or other similarly effective technology, in order to enhance target acquisition.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant—

(1) possessed a firearm equipped with a laser-sighting device; or

(2) possessed a firearm and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser-sighting device (capable of being readily attached to the firearm).

(c) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

Subtitle E—Rights of Victims in State Juvenile Courts

SEC. 261. STATE GUIDELINES.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs to require—

(A) prior to disposition of adjudicated juvenile delinquents, that victims, or in appropriate cases their official representatives, shall be provided the opportunity to make a statement to the court in person or to present any information in relation to the disposition;

(B) that victims of the juvenile adjudicated delinquent be given notice of the disposition; and

(C) that restitution to victims may be ordered as part of the disposition of adjudicated juvenile delinquents.

(2) DEFINITION OF VICTIM.—In this section, the term ''victim'' means any individual against whom a crime of violence has been committed that has as an element the use, attempted use, or threatened use of physical force against the person or property of another or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(b) NO CAUSE OF ACTION CREATED.—Nothing in this section shall be construed to create a cause of action against any State or any agency or employee thereof.

(c) COMPLIANCE.—

(1) COMPLIANCE.—Not later than 3 years after the date of enactment of this Act, each State shall implement this section, except that the Attorney General may grant an additional 2 years to a State if the Attorney General determines that the State is making good faith efforts to implement this section.

(2) INELIGIBILITY FOR AMOUNTS.—

(A) IN GENERAL.—Beginning on the expiration of the period described in paragraph (1) (or such extended period as the Attorney General may provide with respect to a State under that paragraph), during each fiscal year that any State fails to comply with this section, that State shall receive—

(i) not more than 90 percent of the amount that the State would otherwise receive under subtitle C of this title; and

(ii) not more than 90 percent of the amount that the State would otherwise receive under section 362 of title III.

(B) REALLOCATION OF AMOUNTS.—In each fiscal year, any amounts that are not allocated to States described in subparagraph (A) shall be allocated to otherwise eligible States that are in compliance with this section on a pro rata basis.

TITLE III—PREVENTION AND TREATMENT OF YOUTH DRUG ABUSE AND ADDICTION

Subtitle A—Protecting Youth From Dangerous Drugs

SEC. 301. RESCHEDULING OF "CLUB" DRUGS.

Notwithstanding section 201 or subsection (a) or (b) of section 202 of the Controlled Substances Act (21 U.S.C. 811, 812(a), 812(b)) respecting the scheduling of controlled substances, the Attorney General shall, by order add ketamine hydrochloride to schedule III of such Act.

Subtitle B—Development of Medicines for the Treatment of Drug Addiction

PART 1—PHARMACO- THERAPY RESEARCH

SEC. 321. REAUTHORIZATION FOR MEDICATION DEVELOPMENT PROGRAM.

Section 464P(e) of the Public Health Service Act (42 U.S.C. 285o–4(e)) is amended to read:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002 of which the following amount may be appropriated from the Violent Crime Reduction Trust Fund:

''(1) $100,000,000 for fiscal year 2001; and

''(2) $100,000,000 for fiscal year 2002.''.

PART 2—PATENT PROTECTIONS FOR PHARMACOTHERAPIES

SEC. 331. RECOMMENDATION FOR INVESTIGATION OF DRUGS.

Section 525(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360aa(a)) is amended—

(1) by striking ''States'' each place it appears and inserting ''States, or for treatment of an addiction to illegal drugs''; and

(2) by striking ''such disease or condition'' each place it appears and inserting ''such disease, condition, or treatment of such addiction''.

SEC. 332. DESIGNATION OF DRUGS.

Section 526(a) of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)) is amended—

(1) in paragraph (1)—

(A) by inserting before the period in the first sentence the following: ''or for treatment of an addiction to illegal drugs'';

(B) in the third sentence, by striking ''rare disease or condition'' and inserting ''rare disease or condition, or for treatment of an addiction to illegal drugs,''; and

(C) by striking ''such disease or condition'' each place it appears and inserting ''such disease, condition, or treatment of such addiction''; and

(2) in paragraph (2)—

(A) by striking ''(2) For'' and inserting ''(2)(A) For'';

(B) by striking ''(A) affects'' and inserting ''(i) affects'';

(C) by striking ''(B) affects'' and inserting ''(ii) affects''; and

(D) by adding at the end the following:

''(B) TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.—The term 'treatment of an addiction to illegal drugs' means any pharmacological agent or medication that—

''(i) reduces the craving for an illegal drug for an individual who—

''(I) habitually uses the illegal drug in a manner that endangers the public health, safety, or welfare; or

''(II) is so addicted to the use of the illegal drug that the individual is not able to control the addiction through the exercise of self-control;

''(ii) blocks the behavioral and physiological effects of an illegal drug for an individual described in clause (i);

''(iii) safely serves as a replacement therapy for the treatment of drug abuse for an individual described in clause (i);

''(iv) moderates or eliminates the process of withdrawal for an individual described in clause (i);

''(v) blocks or reverses the toxic effect of an illegal drug on an individual described in clause (i); or

''(vi) prevents, where possible, the initiation of drug abuse in individuals at high risk.

''(C) ILLEGAL DRUG.—The term 'illegal drug' means a controlled substance identified under schedules I, II, III, IV, and V in section 202(c) of the Controlled Substance Act (21 U.S.C. 812(c)).''.

SEC. 333. PROTECTION FOR DRUGS.

Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended—

(1) by striking ''rare disease or condition'' each place it appears and inserting ''rare disease or condition or for treatment of an addiction to illegal drugs'';

(2) by striking ''such disease or condition'' each place it appears and inserting ''such disease, condition, or treatment of the addiction''; and

(3) in subsection (b)(1), by striking ''the disease or condition'' and inserting ''the disease, condition, or addiction''.

SEC. 334. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS.

Section 528 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360dd) is amended—

(1) by striking ''rare disease or condition'' and inserting ''rare disease or condition or for treatment of an addiction to illegal drugs''; and

(2) by striking ''the disease or condition'' each place it appears and inserting ''the disease, condition, or addiction''.

PART 3—ENCOURAGING PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPIES

SEC. 341. DEVELOPMENT, MANUFACTURE, AND PROCUREMENT OF DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

"Subchapter D—Drugs for Cocaine and Heroin Addictions

"SEC. 551. CRITERIA FOR AN ACCEPTABLE DRUG TREATMENT FOR COCAINE AND HEROIN ADDICTIONS.

''(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall, through the Institute of Medicine of the National Academy of Sciences, establish criteria for an acceptable drug for the treatment of an addiction to cocaine and for an acceptable drug for the treatment of an addiction to heroin. The criteria shall be used by the Secretary in making a contract, or entering to a licensing agreement, under section 552.

''(b) REQUIREMENTS.—The criteria established under subsection (a) for a drug shall include requirements—

''(1) that the application to use the drug for the treatment of addiction to cocaine or heroin was filed and approved by the Secretary under this Act after the date of enactment of this section;

''(2) that a performance based test on the drug—

''(A) has been conducted through the use of a randomly selected test group that received the drug as a treatment and a randomly selected control group that received a placebo; and

''(B) has compared the long term differences in the addiction levels of control group participants and test group participants;

''(3) that the performance based test conducted under paragraph (2) demonstrates that the drug is effective through evidence that—

''(A) a significant number of the participants in the test who have an addiction to cocaine or heroin are willing to take the drug for the addiction;

''(B) a significant number of the participants in the test who have an addiction to cocaine or heroin and who were provided the drug for the addiction during the test are willing to continue taking the drug as long as necessary for the treatment of the addiction; and

''(C) a significant number of the participants in the test who were provided the drug for the period of time required for the treatment of the addiction refrained from the use of cocaine or heroin for a period of 3 years after the date of the initial administration of the drug on the participants; and

''(4) that the drug shall have a reasonable cost of production.

''(c) REVIEW AND PUBLICATION OF CRITERIA.—The criteria established under subsection (a) shall, prior to the publication and application of such criteria, be submitted for review to the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate. Not later than 90 days after notifying each of the committees, the Secretary shall publish the criteria in the Federal Register.

"SEC. 552. PURCHASE OF PATENT RIGHTS FOR DRUG DEVELOPMENT.

''(a) APPLICATION.—

''(1) IN GENERAL.—The patent owner of a drug to treat an addiction to cocaine or heroin, may submit an application to the Secretary—

''(A) to enter into a contract with the Secretary to sell to the Secretary the patent rights of the owner relating to the drug; or

''(B) in the case in which the drug is approved by the Secretary for more than 1 indication, to enter into an exclusive licensing agreement with the Secretary for the manufacture and distribution of the drug to treat an addiction to cocaine or heroin.

''(2) REQUIREMENTS.—An application described in paragraph (1) shall be submitted at such time and in such manner, and accompanied by such information, as the Secretary may require.

''(b) CONTRACT AND LICENSING AGREEMENT.—

''(1) REQUIREMENTS.—The Secretary may enter into a contract or a licensing agreement with a patent owner who has submitted an application in accordance with (a) if the drug covered under the contract or licensing agreement meets the criteria established by the Secretary under section 551(a).

''(2) SPECIAL RULE.—The Secretary may enter into—

''(A) not more than 1 contract or exclusive licensing agreement relating to a drug for the treatment of an addiction to cocaine; and

''(B) not more than 1 contract or licensing agreement relating to a drug for the treatment of an addiction to heroin.

''(3) COVERAGE.—A contract or licensing agreement described in subparagraph (A) or

(B) of paragraph (2) shall cover not more than 1 drug.

''(4) PURCHASE AMOUNT.—Subject to amounts provided in advance in appropriations Acts—

''(A) the amount to be paid to a patent owner who has entered into a contract or licensing agreement under this subsection relating to a drug to treat an addiction to cocaine shall not exceed $100,000,000; and

''(B) the amount to be paid to a patent owner who has entered into a contract or licensing agreement under this subsection relating to a drug to treat an addiction to heroin shall not exceed $50,000,000.

''(c) TRANSFER OF RIGHTS UNDER CONTRACTS AND LICENSING AGREEMENT.—

''(1) CONTRACTS.—A contract under subsection (b)(1) to purchase the patent rights relating to a drug to treat cocaine or heroin addiction shall transfer to the Secretary—

''(A) the exclusive right to make, use, or sell the patented drug within the United States for the term of the patent;

''(B) any foreign patent rights held by the patent owner;

''(C) any patent rights relating to the process of manufacturing the drug; and

''(D) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, and therapeutic effects of the drug.

''(2) LICENSING AGREEMENTS.—A licensing agreement under subsection (b)(1) to purchase an exclusive license relating to manufacture and distribution of a drug to treat an addiction to cocaine or heroin shall transfer to the Secretary—

''(A) the exclusive right to make, use, or sell the patented drug for the purpose of treating an addiction to cocaine or heroin within the United States for the term of the patent;

''(B) the right to use any patented processes relating to manufacturing the drug; and

''(C) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, and therapeutic effects of the drug relating to use of the drug to treat an addiction to cocaine or heroin.

''SEC. 553. PLAN FOR MANUFACTURE AND DEVELOPMENT.

''(a) IN GENERAL.—Not later than 90 days after the date on which the Secretary purchases the patent rights of a patent owner, or enters into a licensing agreement with a patent owner, relating to a drug under section 551, the Secretary shall develop a plan for the manufacture and distribution of the drug.

''(b) PLAN REQUIREMENTS.—The plan shall set forth—

''(1) procedures for the Secretary to enter into licensing agreements with private entities for the manufacture and the distribution of the drug;

''(2) procedures for making the drug available to nonprofit entities and private entities to use in the treatment of a cocaine or heroin addiction;

''(3) a system to establish the sale price for the drug; and

''(4) policies and procedures with respect to the use of Federal funds by State and local governments or nonprofit entities to purchase the drug from the Secretary.

''(c) APPLICABILITY OF PROCUREMENT AND LICENSING LAWS.—The procurement and licensing laws of the United States shall be applicable to procurements and licenses covered under the plan described in subsection (a).

''(d) REVIEW OF PLAN.—

''(1) IN GENERAL.—Upon completion of the plan under subsection (a), the Secretary shall notify the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate, of the development of the plan and publish the plan in the Federal Register. The Secretary shall provide an opportunity for public comment on the plan for a period of not more than 30 days after the date of the publication of the plan in the Federal Register.

''(2) FINAL PLAN.—Not later than 60 days after the date of the expiration of the comment period described in paragraph (1), the Secretary shall publish in the Federal Register a final plan. The implementation of the plan shall begin on the date of the final publication of the plan.

''(e) CONSTRUCTION.—The development, publication, or implementation of the plan, or any other agency action with respect to the plan, shall not be considered agency action subject to judicial review.

''(f) REGULATIONS.—The Secretary may promulgate regulations to carry out this section.

''SEC. 554. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1998 through 2000.''.

Subtitle C—Prevention and Treatment Programs

PART 1—COMPREHENSIVE DRUG EDUCATION

SEC. 351. EXTENSION OF SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES PROGRAM.

Title IV of the Elementary and Secondary Education Act (20 U.S.C. 7104) is amended to read as follows:

''TITLE IV—AUTHORIZATIONS

''SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated for State grants under subpart 1 and national programs under subpart 2, $655,000,000 for fiscal years 1998 through 2000, and $955,000,000 for fiscal years 2001 through 2002, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

''(1) $300,000,000 for fiscal year 2001; and

''(2) $300,000,000 for fiscal year 2002.''.

PART 2—DRUG COURTS

SEC. 361. REAUTHORIZATION OF DRUG COURTS PROGRAM.

Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(20)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $400,000,000 for fiscal year 2001; and

''(H) $400,000,000 for fiscal year 2002.''.

SEC. 362. JUVENILE DRUG COURTS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Y as part Z;

(2) by redesignating section 2501 as 2601; and

(3) by inserting after part X the following:

''PART Y—JUVENILE DRUG COURTS

''SEC. 2501. GRANT AUTHORITY.

''(a) APPROPRIATE DRUG COURT PROGRAMS.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribes to establish programs that—

''(1) involve continuous early judicial supervision over juvenile offenders, other than violent juvenile offenders with substance abuse, or substance abuse-related problems; and

''(2) integrate administration of other sanctions and services, including—

''(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

''(B) substance abuse treatment for each participant;

''(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

''(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support service for each participant who requires such services;

''(E) payment by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; or

''(F) payment by the offender of restitution, to the extent practicable, to either a victim of the offense at issue or to a restitution or similar victim support fund.

''(b) CONTINUED AVAILABILITY OF GRANT FUNDS.—Amounts made available under this part shall remain available until expended.

''SEC. 2502. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

''The Attorney General shall issue regulations and guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders.

''SEC. 2503. DEFINITION.

''In this part, the term 'violent offender' means an individual charged with an offense during the course of which—

''(1) the individual carried, possessed, or used a firearm or dangerous weapon;

''(2) the death of or serious bodily injury of another person occurred as a direct result of the commission of such offense; or

''(3) the individual used force against the person of another.

''SEC. 2504. ADMINISTRATION.

''(a) REGULATORY AUTHORITY.—the Attorney General shall issue any regulations and guidelines necessary to carry out this part.

''(b) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

''(1) include a long term strategy and detailed implementation plan;

''(2) explain the inability of the applicant to fund the program adequately without Federal assistance;

''(3) certify that the Federal support provided will be used to supplement, and not supplant, State, tribal, or local sources of funding that would otherwise be available;

''(4) identify related governmental or community initiatives that complement or will be coordinated with the proposal;

''(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

''(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the drug court program;

''(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

''(8) describe the methodology that will be used in evaluating the program.

''SEC. 2505. APPLICATIONS.

''To request funds under this part, the chief executive or the chief justice of a State, or the chief executive or chief judge of a unit of local government or Indian tribe shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

''SEC. 2506. FEDERAL SHARE.

''(a) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2505 for the fiscal year for which the program receives assistance under this part.

''(b) WAIVER.—The Attorney General may waive, in whole or in part, the requirement of a matching contribution under subsection (a).

''(c) IN-KIND CONTRIBUTIONS.—In-kind contributions may constitute a portion of the non-Federal share of a grant under this part.

''SEC. 2507. DISTRIBUTION OF FUNDS.

''(a) GEOGRAPHICAL DISTRIBUTION.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

''(b) INDIAN TRIBES.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

''SEC. 2508. REPORT.

''A State, Indian tribe, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General, in March of the year following receipt of a grant under this part, a report regarding the effectiveness of programs established pursuant to this part.

''SEC. 2509. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

''(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

''(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

''(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.

''SEC. 2510. UNAWARDED FUNDS.

''The Attorney General may reallocate any grant funds that are not awarded for juvenile drug courts under this part for use for other juvenile delinquency and crime prevention initiatives.

''SEC. 2511. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part from the Violent Crime Reduction Trust Fund—

''(1) such sums as may be necessary for each of the fiscal years 1998, 1999, and 2000;

''(2) $50,000,000 for fiscal year 2001; and

''(3) $50,000,000 for fiscal year 2002.''.

PART 3—DRUG TREATMENT

SEC. 371. DRUG TREATMENT FOR JUVENILES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

''PART G—RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES

''SEC. 575. RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES.

''(a) IN GENERAL.—The Director of the Center for Substance Abuse Treatment shall award grants to, or enter into cooperative agreements or contracts, with public and nonprofit private entities for the purpose of providing treatment to juveniles for substance abuse through programs in which, during the course of receiving such treatment the juveniles reside in facilities made available by the programs.

''(b) AVAILABILITY OF SERVICES FOR EACH PARTICIPANT.—A funding agreement for an award under subsection (a) for an applicant is that, in the program operated pursuant to such subsection—

''(1) treatment services will be available through the applicant, either directly or through agreements with other public or nonprofit private entities; and

''(2) the services will be made available to each person admitted to the program.

''(c) INDIVIDUALIZED PLAN OF SERVICES.—A funding agreement for an award under subsection (a) for an applicant is that—

''(1) in providing authorized services for an eligible person pursuant to such subsection, the applicant will, in consultation with the juvenile and, if appropriate the parent or guardian of the juvenile, prepare an individualized plan for the provision to the juvenile or young adult of the services; and

''(2) treatment services under the plan will include—

''(A) individual, group, and family counseling, as appropriate, regarding substance abuse; and

''(B) followup services to assist the juvenile or young adult in preventing a relapse into such abuse.

''(d) ELIGIBLE SUPPLEMENTAL SERVICES.—Grants under subsection (a) may be used to provide an eligible juvenile, the following services:

''(1) HOSPITAL REFERRALS.—Referrals for necessary hospital services.

''(2) HIV AND AIDS COUNSELING.—Counseling on the human immunodeficiency virus and on acquired immune deficiency syndrome.

''(3) DOMESTIC VIOLENCE AND SEXUAL ABUSE COUNSELING.—Counseling on domestic violence and sexual abuse.

''(4) PREPARATION FOR REENTRY INTO SOCIETY.—Planning for and counseling to assist reentry into society, both before and after discharge, including referrals to any public or nonprofit private entities in the community involved that provide services appropriate for the juvenile.

''(e) MINIMUM QUALIFICATIONS FOR RECEIPT OF AWARD.—

''(1) CERTIFICATION BY RELEVANT STATE AGENCY.—With respect to the principal agency of a State or Indian tribe that administers programs relating to substance abuse, the Director may award a grant to, or enter into a cooperative agreement or contract with, an applicant only if the agency or Indian tribe has certified to the Director that—

''(A) the applicant has the capacity to carry out a program described in subsection (a);

''(B) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

''(C) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

''(2) STATUS AS MEDICAID PROVIDER.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Director may make a grant, or enter into a cooperative agreement or contract, under subsection (a) only if, in the case of any authorized service that is available pursuant to the State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the State involved—

''(i) the applicant for the grant, cooperative agreement, or contract will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

''(ii) the applicant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement plan and is qualified to receive such payments.

''(B) SERVICES.—

''(i) IN GENERAL.—In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Director if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

''(ii) VOLUNTARY DONATIONS.—A determination by the Director of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

''(C) MENTAL DISEASES.—

''(i) IN GENERAL.—With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of any such service by an institution for mental diseases to an individual who has attained 21 years of age and who has not attained 65 years of age.

''(ii) DEFINITION OF INSTITUTION FOR MENTAL DISEASES.—In this subparagraph, the term 'institution for mental diseases' has the same meaning as in section 1905(i) of the Social Security Act (42 U.S.C. 1396d(i)).

''(f) REQUIREMENTS FOR MATCHING FUNDS.—

''(1) IN GENERAL.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

''(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

''(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

''(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

''(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(g) OUTREACH.—A funding agreement for an award under subsection (a) for an applicant is that the applicant will provide outreach services in the community involved to identify juveniles who are engaging in substance abuse and to encourage the juveniles to undergo treatment for such abuse.

''(h) ACCESSIBILITY OF PROGRAM.—A funding agreement for an award under subsection (a) for an applicant is that the program operated pursuant to such subsection will be operated at a location that is accessible to low income juveniles.

''(i) CONTINUING EDUCATION.—A funding agreement for an award under subsection (a) is that the applicant involved will provide for continuing education in treatment services for the individuals who will provide treatment in the program to be operated by the applicant pursuant to such subsection.

''(j) IMPOSITION OF CHARGES.—A funding agreement for an award under subsection (a) for an applicant is that, if a charge is imposed for the provision of authorized services to or on behalf of an eligible juvenile, such charge—

''(1) will be made according to a schedule of charges that is made available to the public;

''(2) will be adjusted to reflect the economic condition of the juvenile involved; and

''(3) will not be imposed on any such juvenile whose family has an income of less than 185 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

''(k) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

''(1) describing the utilization and costs of services provided under the award;

''(2) specifying the number of juveniles served, and the type and costs of services provided; and

''(3) providing such other information as the Director determines to be appropriate.

''(l) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

''(m) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, as well as among Indian tribes, subject to the availability of qualified applicants for the awards.

''(n) DURATION OF AWARD.—

''(1) IN GENERAL.—The period during which payments are made to an entity from an award under this section may not exceed 5 years.

''(2) APPROVAL OF DIRECTOR.—The provision of payments described in paragraph (1) shall be subject to—

''(A) annual approval by the Director of the payments; and

''(B) the availability of appropriations for the fiscal year at issue to make the payments.

''(3) NO LIMITATION.—This subsection may not be construed to establish a limitation on the number of awards that may be made to an entity under this section.

''(o) EVALUATIONS; DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

''(p) REPORTS TO CONGRESS.—

''(1) INITIAL REPORT.—Not later than October 1, 1998, the Director shall submit to the Committee on the Judiciary of the House of Representatives, and to the Committee on the Judiciary of the Senate, a report describing programs carried out pursuant to this section.

''(2) PERIODIC REPORTS.—

''(A) IN GENERAL.—Not less than biennially after the date described in paragraph (1), the Director shall prepare a report describing programs carried out pursuant to this section during the preceding 2-year period, and shall submit the report to the Administrator for inclusion in the biennial report under section 501(k).

''(B) SUMMARY.—Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) during the period with respect to which the report is prepared.

''(q) DEFINITIONS.—In this section:

''(1) AUTHORIZED SERVICES.—The term 'authorized services' means treatment services and supplemental services.

''(2) JUVENILE.—The term 'juvenile' means anyone 18 years of age or younger at the time that of admission to a program operated pursuant to subsection (a).

''(3) ELIGIBLE JUVENILE.—The term 'eligible juvenile' means a juvenile who has been admitted to a program operated pursuant to subsection (a).

''(4) FUNDING AGREEMENT UNDER SUBSECTION (A).—The term 'funding agreement under subsection (a)', with respect to an award under subsection (a), means that the Director may make the award only if the applicant makes the agreement involved.

''(5) TREATMENT SERVICES.—The term 'treatment services' means treatment for substance abuse, including the counseling and services described in subsection (c)(2).

''(6) SUPPLEMENTAL SERVICES.—The term 'supplemental services' means the services described in subsection (d).

''(r) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of carrying out this section and section 576 there is authorized to be appropriated such sums as may be necessary for fiscal years 1998, 1999, and 2000. There is authorized to be appropriated from the Violent Crime Reduction Trust Fund $300,000,000 in each of the fiscal years 2001 and 2002.

''(2) TRANSFER.—For the purpose described in paragraph (1), in addition to the amounts authorized in such paragraph to be appropriated for a fiscal year, there is authorized to be appropriated for the fiscal year from the special forfeiture fund of the Director of the Office of National Drug Control Policy such sums as may be necessary.

''(3) RULE OF CONSTRUCTION.—The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).

''SEC. 576. OUTPATIENT TREATMENT PROGRAMS FOR JUVENILES.

''(a) GRANTS.—The Secretary of Health and Human Services, acting through the Director of the Center for Substance Abuse Treatment, shall make grants to establish projects for the outpatient treatment of substance abuse among juveniles.

''(b) PREVENTION.—Entities receiving grants under this section shall engage in activities to prevent substance abuse among juveniles.

''(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate projects carried out under subsection (a) and shall disseminate to appropriate public and private entities information on effective projects.''.

Subtitle D—National Drug Control Policy

SEC. 381. REAUTHORIZATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) REAUTHORIZATION.—Section 1009 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506) is amended by striking ''1997'' and inserting ''2002''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1011 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1508) is amended by striking ''8'' and inserting ''13''.

SEC. 382. STUDY ON EFFECTS OF CALIFORNIA AND ARIZONA DRUG INITIATIVES.

(a) DEFINITION.—In this section, the term ''controlled substance'' has the same meaning as in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(b) STUDY.—The Director of National Drug Control Policy, in consultation with the Attorney General and the Secretary of Health and Human Services, shall conduct a study on the effect of the 1996 voter referenda in California and Arizona concerning the medicinal use of marijuana and other controlled substances, respectively, on—

(1) marijuana usage in Arizona and California;

(2) usage of other controlled substances in Arizona and California;

(3) perceptions of youth of the dangerousness of marijuana and other controlled substances in Arizona and California;

(4) emergency room admissions for drug abuse in Arizona and California;

(5) seizures of controlled substances in Arizona and California;

(6) arrest rates for use of controlled substances in Arizona and California;

(7) arrest rates for trafficking of controlled substances in Arizona and California;

(8) conviction rates in cases concerning use of controlled substances in Arizona and California; and

(9) conviction rates in jury trials concerning use of controlled substances in Arizona and California.

(c) REPORT.—Not later than January 1, 1998, the Director of National Drug Policy, in consultation with the Attorney General and the Secretary of Health and Human Services, shall—

(1) issue a report on the results of the study under subsection (b); and

(2) submit a copy of the report to the Committees on the Judiciary of the House of Representatives and the Senate.

(d) AUTHORIZATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 and 1999.

Subtitle E—Penalty Enhancements

SEC. 391. INCREASED PENALTIES FOR USING FEDERAL PROPERTY TO GROW OR MANUFACTURE CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended to read as follows:

''(5) OFFENSES ON FEDERAL PROPERTY.—Any person who violates subsection (a) by cultivating or manufacturing a controlled substance on any property in whole or in part owned by or leased to the United States or any department or agency thereof shall be subject to twice the maximum punishment otherwise authorized for the offense.''.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement to ensure that violations of section 401(b)(5) of the Controlled Substances Act are punished substantially more severely than violations that do not occur on Federal property.

(c) CONSISTENCY.—In carrying out this subsection, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 392. TECHNICAL CORRECTION TO ENSURE COMPLIANCE OF FEDERAL SENTENCING GUIDELINES WITH FEDERAL LAW.

Section 994(a) of title 28, United States Code, is amended by striking ''consistent with all pertinent provisions of this title and title 18, United States Code,'' and inserting ''consistent with all pertinent provisions of Federal law''.

TITLE IV—PROTECTING YOUTH FROM VIOLENT CRIME

Subtitle A—Grants for Youth Organizations

SEC. 401. GRANT PROGRAM.

The Attorney General may make grants to States, Indian tribes, and national nonprofit organizations in crime prone areas, such as Boys and Girls Clubs, Police Athletic Leagues, 4–H Clubs, D.A.R.E. America, and Kids 'N Kops programs, for the purpose of—

(1) providing constructive activities to youth during after school hours, weekends, and school vacations to prevent the criminal victimization of program participants;

(2) providing supervised activities in safe environments to youth in crime prone areas;

(3) providing antidrug education to prevent drug abuse among youth;

(4) supporting police officer training and salaries and educational materials to expand D.A.R.E. America's middle school campaign; or

(5) providing constructive activities to youth in a safe environment through parks and other public recreation areas.

SEC. 402. GRANTS TO NATIONAL ORGANIZATIONS.

(a) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief operating officer of a national community-based organization shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the communities;

(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;

(D) written assurances that all activities will be supervised by an appropriate number of responsible adults;

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs; and

(F) any additional statistical or financial information that the Attorney General may reasonably require.

(b) GRANT AWARDS.—In awarding grants under this section, the Attorney General shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the history and establishment of the applicant in providing youth activities on a nationwide basis; and

(3) the extent to which the organizations shall achieve an equitable geographic distribution of the grant awards.

SEC. 403. GRANTS TO STATES.

(a) APPLICATIONS.—

(1) IN GENERAL.—The Attorney General may make grants under this section to States for distribution to units of local government and community-based organizations for the purposes set forth in section 401.

(2) GRANTS.—To request a grant under this section, the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(3) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (2) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the community;

(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;

(D) written assurances that all activities will be supervised by an appropriate number of responsible adults; and

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs.

(b) GRANT AWARDS.—In awarding grants under this section, the State shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the history and establishment of the applicant in the community to be served;

(3) the level of juvenile crime, violence, and drug use in the community;

(4) the extent to which structured extracurricular activities for youth are otherwise unavailable in the community;

(5) the need in the community for secure environments for youth to avoid criminal victimization and exposure to crime and illegal drugs;

(6) to the extent practicable, achievement of an equitable geographic distribution of the grant awards; and

(7) whether the applicant has an established record of providing extracurricular activities that are generally not otherwise available to youth in the community.

(c) ALLOCATION.—

(1) STATE ALLOCATIONS.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this section to each State that has applied for a grant under this section.

(2) INDIAN TRIBES.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this section to Indian tribes, in accordance with the criteria set forth in subsections (a) and (b).

(3) REMAINING AMOUNTS.—Of the amount remaining after the allocations under paragraphs (1) and (2), the Attorney General shall allocate to each State an amount that bears the same ratio to the total amount of remaining funds as the population of the State bears to the total population of all States.

SEC. 404. ALLOCATION; GRANT LIMITATION.

(a) ALLOCATION.—Of amounts made available to carry out this subtitle—

(1) 20 percent shall be for grants to national organizations under section 402; and

(2) 80 percent shall be for grants to States under section 403.

(b) GRANT LIMITATION.—Not more than 3 percent of the funds made available to the Attorney General or a grant recipient under this subtitle may be used for administrative purposes.

SEC. 405. REPORT AND EVALUATION.

(a) REPORT TO THE ATTORNEY GENERAL.—Not later than October 1, 1998, and October 1 of each year thereafter, each grant recipient under this subtitle shall submit to the Attorney General a report that describes, for the year to which the report relates—

(1) the activities provided;

(2) the number of youth participating;

(3) the extent to which the grant enabled the provision of activities to youth that would not otherwise be available; and

(4) any other information that the Attorney General requires for evaluating the effectiveness of the program.

(b) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1, 1999, and March 1 of each year thereafter, the Attorney General shall submit to the Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this subtitle, and an evaluation of programs established by grant recipients under this subtitle.

(c) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this subtitle, the Attorney General shall consider—

(1) the number of youth served by the grant recipient;

(2) the percentage of youth participating in the program charged with acts of delinquency or crime compared to youth in the community at large;

(3) the percentage of youth participating in the program that uses drugs compared to youth in the community at large;

(4) the percentage of youth participating in the program that are victimized by acts of crime or delinquency compared to youth in the community at large; and

(5) the truancy rates of youth participating in the program compared to youth in the community at large.

(d) DOCUMENTS AND INFORMATION.—Each grant recipient under this subtitle shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this subtitle.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of the fiscal years 1998 through 2000;

(2) for fiscal year 2001, $125,000,000; and

(3) for fiscal year 2002, $125,000,000.

(b) CONTINUED AVAILABILITY.—Amounts made available under this subtitle shall remain available until expended.

Subtitle B—"Say No to Drugs" Community Centers Act of 1997

SEC. 421. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Say No to Drugs Community Centers Act of 1997''.

(b) DEFINITIONS.—For purposes of this subtitle—

(1) the term ''community-based organization'' means a private, locally initiated organization that—

(A) is a nonprofit organization, as that term is defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) involves the participation, as appropriate, of members of the community and community institutions, including—

(i) business and civic leaders actively involved in providing employment and business development opportunities in the community;

(ii) educators;

(iii) religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with program activities funded under this subtitle);

(iv) law enforcement agencies; and

(v) other interested parties;

(2) the term ''eligible community'' means a community—

(A) identified by an eligible recipient for assistance under this subtitle; and

(B) an area that meets such criteria as the Attorney General may, by regulation, establish, including criteria relating to poverty, juvenile delinquency, and crime;

(3) the term ''eligible recipient'' means a community-based organization or public school that has—

(A) been approved for eligibility by the Attorney General, upon application submitted to the Attorney General in accordance with section 412(b); and

(B) demonstrated that the projects and activities it seeks to support in an eligible community involve the participation, when feasible and appropriate, of—

(i) parents, family members, and other members of the eligible community;

(ii) civic and religious organizations serving the eligible community;

(iii) school officials and teachers employed at schools located in the eligible community;

(iv) public housing resident organizations in the eligible community; and

(v) public and private nonprofit organizations and organizations serving youth that provide education, child protective services, or other human services to low income, at-risk youth and their families;

(4) 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 Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved; and

(5) the term ''public school'' means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of that Act (42 U.S.C. 1141(d)).

SEC. 422. GRANT REQUIREMENTS.

(a) IN GENERAL.—The Attorney General may make grants to eligible recipients, which grants may be used to provide to youth living in eligible communities during after school hours or summer vacations, the following services:

(1) Rigorous drug prevention education.

(2) Drug counseling and treatment.

(3) Academic tutoring and mentoring.

(4) Activities promoting interaction between youth and law enforcement officials.

(5) Vaccinations and other basic preventive health care.

(6) Sexual abstinence education.

(7) Other activities and instruction to reduce youth violence and substance abuse.

(b) LOCATION AND USE OF AMOUNTS.—An eligible recipient that receives a grant under this subtitle—

(1) shall ensure that the stated program is carried out—

(A) when appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility that is—

(i) in a location easily accessible to youth in the community; and

(ii) in compliance with all applicable State and local ordinances;

(2) shall use the grant amounts to provide to youth in the eligible community services and activities that include extracurricular and academic programs that are offered—

(A) after school and on weekends and holidays, during the school year; and

(B) as daily full day programs (to the extent available resources permit) or as part day programs, during the summer months;

(3) shall use not more than 5 percent of the amounts to pay for the administrative costs of the program;

(4) shall not use such amounts to provide sectarian worship or sectarian instruction; and

(5) may not use the amounts for the general operating costs of public schools.

(c) APPLICATIONS.—

(1) IN GENERAL.—Each application to become an eligible recipient shall be submitted to the Attorney General at such time, in such manner, and accompanied by such information, as the Attorney General may reasonably require.

(2) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services to be provided through the program for which the grant is sought;

(B) contain a comprehensive plan for the program that is designed to achieve identifiable goals for youth in the eligible community;

(C) describe in detail the drug education and drug prevention programs that will be implemented;

(D) specify measurable goals and outcomes for the program that will include—

(i) reducing the percentage of youth in the eligible community that enter the juvenile justice system or become addicted to drugs;

(ii) increasing the graduation rates, school attendance, and academic success of youth in the eligible community; and

(iii) improving the skills of program participants;

(E) contain an assurance that the applicant will use grant amounts received under this subtitle to provide youth in the eligible community with activities and services consistent with subsection (g);

(F) demonstrate the manner in which the applicant will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(G) include an estimate of the number of youth in the eligible community expected to be served under the program;

(H) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(I) contain an assurance that the applicant will comply with any evaluation under section 522, any research effort authorized under Federal law, and any investigation by the Attorney General;

(J) contain an assurance that the applicant will prepare and submit to the Attorney General an annual report regarding any program conducted under this subtitle;

(K) contain an assurance that the program for which the grant is sought will, to the maximum extent practicable, incorporate services that are provided solely through non-Federal private or nonprofit sources; and

(L) contain an assurance that the applicant will maintain separate accounting records for the program for which the grant is sought.

(3) PRIORITY.—In determining eligibility under this section, the Attorney General shall give priority to applicants that submit applications that demonstrate the greatest local support for the programs they seek to support.

(d) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Attorney General shall, subject to the availability of appropriations, provide to each eligible recipient the Federal share of the costs of developing and carrying out programs described in this section.

(2) FEDERAL SHARE.—The Federal share of the cost of a program under this subtitle shall be not more than—

(A) 75 percent of the total cost of the program for each of the first 2 years of the duration of a grant;

(B) 70 percent of the total cost of the program for the third year of the duration of a grant; and

(C) 60 percent of the total cost of the program for each year thereafter.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of the cost of a program under this subtitle may be in cash or in kind, fairly evaluated, including plant, equipment, and services. Federal funds made available for the activity of any agency of an Indian tribal government or the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the costs of programs or projects funded under this subtitle.

(B) SPECIAL RULE.—Not less than 15 percent of the non-Federal share of the costs of a program under this subtitle shall be provided from private or nonprofit sources.

(e) PROGRAM AUTHORITY.—

(1) IN GENERAL.—

(A) ALLOCATIONS FOR STATES AND INDIAN TRIBES.—

(i) IN GENERAL.—In any fiscal year in which the total amount made available to carry out this subtitle is equal to not less than $20,000,000, from the amount made available to carry out this subtitle, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.

(ii) INDIAN TRIBES.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS AND PUBLIC SCHOOLS FROM ALLOCATIONS.—For each fiscal year described in subparagraph (A), the Attorney General may award grants from the appropriate State or Indian tribe allocation determined under subparagraph (A) on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(C) REALLOCATION.—If, at the end of a fiscal year described in subparagraph (A), the Attorney General determines that amounts allocated for a particular State or Indian tribe under subparagraph (B) remain unobligated, the Attorney General shall use such amounts to award grants to eligible recipients in another State or Indian tribe to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle. In awarding such grants, the Attorney General shall consider the need to maintain geographic diversity among eligible recipients.

(D) AVAILABILITY OF AMOUNTS.—Amounts made available under this paragraph shall remain available until expended.

(2) OTHER FISCAL YEARS.—In any fiscal year in which the amount made available to carry out this subtitle is equal to or less than $20,000,000, the Attorney General may award grants on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(3) ADMINISTRATIVE COSTS.—The Attorney General may use not more than 3 percent of the amounts made available to carry out this subtitle in any fiscal year for administrative costs, including training and technical assistance.

SEC. 423. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund—

(1) for fiscal year 2001, $125,000,000; and

(2) for fiscal year 2002, $125,000,000.

Subtitle C—Missing Children

SEC. 431. AMENDMENTS TO THE MISSING CHILDREN'S ASSISTANCE ACT.

(a) DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.—Section 404 of the Missing Children's Assistance Act (42 U.S.C. 5773) is amended—

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

(2) in subsection (b)—

(A) by striking ''(b) The Administrator'' and all that follows through ''shall—'' and inserting the following:

''(b) TOLL-FREE HOTLINE AND NATIONAL RESOURCE CENTER.—The Administrator shall make grants to or enter into contracts with the National Center for Missing and Exploited Children, for purposes of—'';

(B) in paragraph (1)—

(i) in subparagraph (A), by striking ''establish and operate'' and inserting ''providing''; and

(ii) in subparagraph (B), by adding ''and'' at the end;

(C) in paragraph (2)—

(i) by striking ''establish and operate'' and inserting ''operating'';

(ii) in subparagraph (A), by inserting ''foreign governments,'' after ''State and local governments''; and

(iii) in subparagraph (D)—

(I) by inserting ''foreign governments,'' after ''State and local governments''; and

(II) by striking ''; and'' at the end and inserting a period;

(D) in paragraph (3), by striking ''(3) periodically'' and inserting the following:

''(c) NATIONAL INCIDENCE STUDIES.—The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

''(1) periodically''; and

(E) by redesignating paragraph (4) as paragraph (2).

(b) GRANTS.—Section 405(a) of the Missing Children's Assistance Act (42 U.S.C. 5775(a)) is amended by inserting ''the National Center for Missing and Exploited Children and with'' before ''public agencies''.

TITLE V—IMPROVING YOUTH CRIME AND DRUG PREVENTION

Subtitle A—Comprehensive Study of Federal Prevention Efforts

SEC. 501. STUDY BY NATIONAL ACADEMY OF SCIENCE.

(a) IN GENERAL.—The Attorney General shall enter into a contract with a public or nonprofit private entity, subject to subsection (b), for the purpose of conducting a study or studies—

(1) to evaluate the effectiveness of federally funded programs for preventing youth violence and youth substance abuse;

(2) to evaluate the effectiveness of federally funded grant programs for preventing criminal victimization of juveniles;

(3) to identify specific Federal programs and programs that receive Federal funds that contribute to reductions in youth violence, youth substance abuse, and risk factors among youth that lead to violent behavior and substance abuse;

(4) to identify specific programs that have not achieved their intended results; and

(5) to make specific recommendations on programs that—

(A) should receive continued or increased funding because of their proven success; or

(B) should have their funding terminated or reduced because of their lack of effectiveness.

(b) NATIONAL ACADEMY OF SCIENCES.—The Attorney General shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study or studies described in subsection (a). If the Academy declines to conduct the study, the Attorney General shall carry out such subsection through other public or nonprofit private entities.

(c) ASSISTANCE.—In conducting the study under subsection (a) the contracting party may obtain analytic assistance, data, and other relevant materials from the Department of Justice and any other appropriate Federal agency.

(d) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than January 1, 2000, the Attorney General shall submit a report describing the findings made as a result of the study required by subsection (a) to the Committee on the Judiciary and the Committee on Economic and Educational Opportunity of the House of Representatives and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate.

(2) CONTENTS.—The report required by this subsection shall contain specific recommendations concerning funding levels for the programs evaluated. Reports on the effectiveness of such programs and recommendations on funding shall be provided to the appropriate subcommittees of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

(e) FUNDING.—There are authorized to be appropriated to carry out the study under subsection (a) $1,000,000,000.

Subtitle B—Evaluation Mandate for Authorized Programs

SEC. 522. EVALUATION OF CRIME PREVENTION PROGRAMS.

The Attorney General, with respect to the programs in titles II, III, and IV of this Act shall provide, directly or through grants and contracts, for the comprehensive and thorough evaluation of the effectiveness of each program established by this Act and the amendments made by this Act.

SEC. 523. EVALUATION AND RESEARCH CRITERIA.

(a) INDEPENDENT EVALUATIONS AND RESEARCH.—Evaluations and research studies conducted pursuant to this subtitle shall be independent in nature, and shall employ rigorous and scientifically recognized standards and methodologies.

(b) CONTENT OF EVALUATIONS.—Evaluations conducted pursuant to this title may include comparison between youth participating in the programs and the community at large of rates of—

(1) delinquency, youth crime, youth gang activity, youth substance abuse, and other high risk factors;

(2) risk factors in young people that contribute to juvenile violence, including academic failure, excessive school absenteeism, and dropping out of school;

(3) risk factors in the community, schools, and family environments that contribute to youth violence; and

(4) criminal victimizations of youth.

SEC. 524. COMPLIANCE WITH EVALUATION MANDATE.

The Attorney General may require the recipients of Federal assistance for programs under this Act to collect, maintain, and report information considered to be relevant to any evaluation conducted pursuant to section 502, and to conduct and participate in specified evaluation and assessment activities and functions.

SEC. 525. RESERVATION OF AMOUNTS FOR EVALUATION AND RESEARCH.

(a) IN GENERAL.—The Attorney General, with respect to titles II, III, and IV shall reserve not less than 2 percent, and not more than 4 percent, of the amounts made available pursuant to such titles and the amendments made by such titles in each fiscal year to carry out the evaluation and research required by this title.

(b) ASSISTANCE TO GRANTEES AND EVALUATED PROGRAMS.—To facilitate the conduct and defray the costs of crime prevention program evaluation and research, the Attorney General shall use amounts reserved under this section to provide compliance assistance to grantees under this Act who are selected to participate in evaluations pursuant to section 522.

Subtitle C—Elimination of Ineffective Programs

SEC. 531. SENSE OF SENATE REGARDING FUNDING FOR PROGRAMS DETERMINED TO BE INEFFECTIVE.

It is the sense of the Senate that programs identified in the study performed pursuant to section 501 as being ineffective in addressing juvenile crime and substance abuse should not receive Federal funding in any fiscal year following the issuance of such study.

TITLE VI—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND

SEC. 601. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(7) for fiscal year 2001, $6,500,000,000; and

''(8) for fiscal year 2002, $6,500,000,000.''.

(b) BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 251A(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a(b)) is amended—

(1) by striking all after ''$4,904,000,000.''; and

(2) by adding at the end the following:

''(E) For fiscal year 1999, $5,639,000,000.

''(F) For fiscal year 2000, $6,225,000,000.

''(G) For fiscal year 2001, $6,225,000,000.

''(H) For fiscal year 2002, $6,225,000,000.''.

(c) REDUCTION IN DISCRETIONARY SPENDING LIMITS.—Beginning on the date of enactment of this Act, the discretionary spending limits set forth in section 601(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2) (as adjusted in conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, and in the Senate, with section 301 of House Concurrent Resolution 178 (104th Congress)) for fiscal years 2001 through 2002 are reduced as follows:

(1) For fiscal year 2001, for the discretionary category: $6,500,000,000 in new budget authority and $6,225,000,000 in outlays.

(2) For fiscal year 2002, for the discretionary category: $6,500,000,000 in new budget authority and $6,225,000,000 in outlays.

Mr. LEAHY. Mr. President, I am pleased to join with Senator DASCHLE and other Democratic Senators in introducing S. 15, the Youth Violence, Crime and Drug Abuse Control Act.

Unfortunately, we need to look no further than today's headlines to see how badly we need this legislation. Over the past week, the chilling story has unfolded about Darryl Hall, a 12-year-old boy violently abducted on his way home from school in our Nation's Capital and then found dead and frozen

with a gunshot to the back of his head. Three youths have been arrested, and the police suspect this heinous crime was the work of a gang. We must put a stop to the brutality of children killing children.

We all want to protect the children of this country from becoming victims of crime, from joining gangs, and from becoming drug addicts. This is not a partisan issue. Gang members do not ask their new recruits whether they are Republican or Democrat. Criminals do not ask before they strike whether their victim is Republican or Democrat. We in Congress need to make every effort to work together to get a handle on this problem.

The Democratic crime initiative we are introducing today builds on and continues the proven elements of the 1994 crime bill and takes the next steps to confront the problems of youth crime, drug abuse and gang violence. Our bill targets youthful offenders for certain punishment when they commit violent acts and offers helpful treatment when they need it. Although the number of juveniles arrested for violent crimes dipped in 1995, these numbers remain at unacceptable levels: sixty-four percent more juveniles were arrested for violent crimes in 1995 than in 1987.

Concern about the spread of gangs—the violence, the drug dealing and other criminal activity that gangs leave in their wake—has spread from our large cities to rural American towns. Indeed, one of the major factors responsible for the increases in juvenile crime over the past decade is the growth of criminal street gangs across this country. Although places such as Los Angeles or New York City first spring to mind when the word ''gang'' is mentioned, gangs are spreading across State boundaries and are problems today in many rural areas, as well as in urban centers.

In my days as a prosecutor, gangs were unheard of in Vermont. Unfortunately, this is no longer the case. Just last month, the Vermont Corrections Commissioner reported significant increases in gang activity occurring in Vermont's prisons. There are also reports that franchises of the ''los solidos'' gang have set up shop in Rutland, and the ''la familia'' gang has moved into St. Johnsbury.

Gangs violate the law, corrupt our youth, and disturb the tranquility of our streets. They are a problem we all now face, and they are a driving force in the crime wave which this Congress and the Federal Government must address, in partnership with our States and communities and with law enforcement authorities at all levels.

What do we propose to do about it? First, we hope to work constructively with our colleagues from the other side of the aisle to deal with the problems of gangs and youth violence. We were able to do that in 1994. Senator BIDEN, who was then chairman of the Senate Judiciary Committee, worked tirelessly to ensure passage of the 1994 crime law. The Democratic youth violence bill we introduce today has been crafted under the leadership of Senator DASCHLE and reflects the contributions of Senators BIDEN, KOHL, FEINSTEIN, KENNEDY, and others.

This Democratic leadership bill builds on the successes of the 1994 crime law, which is putting 100,000 cops on our Nation's streets and increased prevention and intervention efforts to keep children safe from crime and drugs. Specifically, our bill will:

Expand the community oriented policing [cops] program to put 25,000 more cops on the beat;

Continue the Violence Against Women Act by providing $600 million to prosecute batterers, shelter 400,000 battered women and their children and continue the national domestic violence hotline; and

Provide $5 billion to build prisons so that States requiring serious violent offenders to serve at least 85 percent of their sentences will be better able to house criminals.

The Democratic crime bill also looks to the future with new laws and programs to crack down on violent youth and gang violence. These measures target the use of ''gang paraphernalia'', the spread of gang ''franchises'', the intimidation of witnesses, and reform of the juvenile justice system, with more protection for the victims of juvenile crime.

Specifically, our bill would increase the penalties for illegally using ''gang paraphernalia'' such as body armor and laser sighting devices. Police officers use kevlar vests to protect their lives and hence our public safety. When criminals use kevlar vests, they do so to ensure their escape and enjoy the fruits of their crime. Under this bill, they would get more time when they are caught using such body armor in the commission of a crime.

The bill also makes it easier for law enforcement to use clone beepers to investigate gang activity. Beepers are how gang members and drug dealers keep in touch with each other. One tool law enforcement uses to investigate these criminals is a ''clone beeper'', which displays the same numbers displayed on the beepers of targeted criminals. This bill will permit law enforcement to get a clone beeper with the same kind of court order they already use to get information on the numbers dialed to or from a telephone. This is not to be confused with wiretap order to eavesdrop on what people say; clone beepers only give information on the numbers displayed on the beeper. The bill will speed up the process for law enforcement to get ''clone beepers.''

Our bill would double the penalty for using physical violence or threatening physical violence against witnesses, victims or informants. Nothing undermines our system of justice more than scaring people away from providing information that helps the police, prosecutors, judges and juries from finding the truth.

The bill would create a new federal crime for expanding gangs across State borders and increase penalties for using firearms to commit drug trafficking crimes and crimes of violence.

We also propose several needed changes in the juvenile justice system to respond to the need to crack down on violent youth with the full force of the law. This means increasing the incarceration periods for juvenile offenders so that they may be incarcerated until the age of 26 instead of mandatory release at the age of 21, streamlining procedures for prosecuting violent juveniles as adults, and building more prisons to incarcerate juvenile offenders. In addition, our bill creates new juvenile gun and drug courts to speed prosecution and sentencing for drug abuse and weapons violations.

The bill also improves the rights of victims of violent juvenile crime. Whether the perpetrator of a violent crime is an adult or a juvenile, the victim should have the opportunity to speak to the sentencing judge and be entitled to restitution.

Drugs have had a devastating affect on our society. It is clear that no solution to the juvenile crime problem will work if it does not address the role that drug abuse and drug trafficking play in creating unsafe environments for our children. For this reason, the Democratic crime bill includes measures to prevent and treat youth drug addiction. These measures include:

Providing $200 million investment in research and development of medicines to treat heroin and cocaine addiction; and

Extending the drug courts program to force more than 500,000 adult and juvenile drug offenders to engage in a rigorous drug testing and drug treatment—or face certain imprisonment.

We also protect children from becoming the victims of crime, with programs that would keep children like Darryl Hall in safer environments. These measures include:

Extending the Safe and Drug Free Schools Program; and

Creating after-school ''safe havens'' where children are protected from drugs, gangs and crime in supervised and productive environments.

In Vermont, we have a very successful program called ''Kids 'N Kops'' that brings school-age children and our law enforcement officers together in a fun and constructive way. Last spring, the attorney general attended an annual event in Vermont celebrating this program and urged that the program be replicated elsewhere in the country. This bill would help make that a reality.

Youth crime has many causes, and no one bill can solve them all. But that should not paralyze us from taking sensible steps, in partnership with states and communities of all sizes and in all regions of the Nation, to begin turning the tables on youth crime and

drug abuse. This bill proposes a balanced approach combining strong, targeted law enforcement measures with the prevention efforts that law enforcement officers on the front lines tell us are necessary to make a dent in the problem.

In the final stages, the 1994 crime bill was passed over vigorous partisan obstacles and objections, and crime bills often spark some of our most partisan debates. But this time, we truly have the opportunity to pass a bipartisan bill with the active support of a president who is making youth crime prevention a priority in his second term and who supports the thrust of what we are proposing in this package. We have come forward with balanced, commonsense solutions to youth crime. We should debate and refine this bill as we go along, but these are not suggestions that should divide us along party lines.

We look forward to working with the administration, our Republican colleagues and the Department of Justice—which has demonstrated its ability to move effectively in implementing anti-crime initiatives—in bringing these proposals to Congress' front burner for debate and prompt action.

Mr. BREAUX. Mr. President, I am pleased to be an original cosponsor of this Democratic leadership bill—the youth violence, crime, and drug abuse bill.

Crime ranks among the highest concerns of all Americans, no matter what their race or social background. Louisiana is no exception. In a recent poll, 86 percent of Louisianians said crime is a serious problem, ranking it as the No. 1 problem in our State. The city of New Orleans is experiencing a murder rate that is eight times higher than the national average. People want us and their local governments and State governments to do something about this problem.

The Federal Bureau of Investigation recently released statistics showing that serious and violent crime dropped nationwide in the first half of last year. It is good news, certainly, that violent crime in this country has gone down; but the bad news is that juvenile crime is on the increase. Youth crimes, particularly homicides perpetrated with guns, have skyrocketed. The average cost of incarcerating a juvenile for just 1 year is somewhere between $23,000 and $64,000. I strongly support this Democratic legislation because it focuses directly on juveniles, punishes violent youthful offenders, and provides more access to treatment and prevention programs.

We must continue the success of the COPS Program and put 25,000 more cops on the beat. We must create a new Federal crime targeting the interstate franchising spread of criminal street gangs and other changes aimed at gang violence, such as increasing the penalties for witness intimidation. We must extend the drug court program to force some 500,000 drug offenders to engage in rigorous drug testing and treatment, or face imprisonment and, finally, we must continue to provide funds to arrest and prosecute batterers and shelter 400,000 battered women. Mr. President, this bill includes all of these provisions, and I would urge my colleagues to support it.

For the sake of generations to come, it is time that we attack crime with a renewed vigor. Today's juvenile criminal becomes tomorrow's adult criminal. We must pass this legislation.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. JOHNSON, Mr. DORGAN, Mr. CONRAD, Mr. KERREY, Mr. BAUCUS, Mr. BINGAMAN, Mr. KOHL, Mr. FEINGOLD, Mr. LEAHY, and Mr. WELLSTONE):

S. 16. A bill to ensure the continued viability of livestock producers and the livestock industry in the United States, to assure foreign countries do not deny market access to United States meat and meat products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE CATTLE INDUSTRY IMPROVEMENT ACT OF 1997

Mr. DASCHLE. Mr. President, I am unanimous consent that the text of the bill be printed in the RECORD.

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

S. 16

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 ''Cattle Industry Improvement Act of 1997''.

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

TITLE I—CATTLE INDUSTRY IMPROVEMENT

SEC. 101. PROHIBITION ON NONCOMPETITIVE PRACTICES.

Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) in subsection (g), by striking the period at the end and inserting ''; or''; and

(2) by adding at the end the following:

''(h) Engage in any practice or device that the Secretary by regulation, after consultation with producers of cattle, lamb, and hogs, and other persons in the cattle, lamb, and hog industries, determines is a detrimental noncompetitive practice or device relating to the price or a term of sale for the procurement of livestock or the sale of meat or other byproduct of slaughter.''.

SEC. 102. DOMESTIC MARKET REPORTING.

(a) PERSONS IN SLAUGHTER BUSINESS.—Section 203(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)) is amended—

(1) by striking ''(g) To'' and inserting the following:

''(g) COLLECTION AND DISSEMINATION OF MARKETING INFORMATION.—

''(1) IN GENERAL.—To''; and

(2) by adding at the end the following:

''(2) DOMESTIC MARKET REPORTING.—

''(A) MANDATORY REPORTING.—Each person engaged in the business of slaughtering a quantity of livestock determined by the Secretary shall report to the Secretary in such manner as the Secretary shall require, as soon as practicable but not later than 24 hours after a transaction takes place, such information relating to prices and the terms of sale for the procurement of livestock and the sale of meat food products and livestock products as the Secretary determines is necessary to carry out this subsection.

''(B) NONCOMPLIANCE.—Whoever knowingly fails or refuses to provide to the Secretary information required to be reported by subparagraph (A) shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

''(C) VOLUNTARY REPORTING.—The Secretary shall encourage voluntary reporting by any person engaged in the business of slaughtering livestock who is not subject to subparagraph (A).

''(D) AVAILABILITY OF INFORMATION.—The Secretary shall make information received under this subsection available to the public only in the aggregate and shall ensure the confidentiality of persons providing the information.

''(E) TERMINATION OF AUTHORITY.—The authority provided by this paragraph shall terminate on the date that is 1 year after the date of enactment of this paragraph, except that the Secretary may extend the authority beyond that date if the Secretary determines the extension is necessary or appropriate.''.

(b) ELIMINATION OF OUTMODED REPORTS.—The Secretary of Agriculture, after consultation with producers and other affected parties, shall periodically—

(1) eliminate obsolete reports; and

(2) streamline the collection and reporting of data related to livestock and meat and livestock products, using modern data communications technology, to provide information to the public on as close to a real-time basis as practicable.

(c) DEFINITION OF ''CAPTIVE SUPPLY''.—For the purpose of regulations issued by the Secretary of Agriculture relating to reporting under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) and the Packers and

Stockyards Act, 1921 (7 U.S.C. 181 et seq.), the term ''captive supply'' means livestock obligated to a packer in any form of transaction in which more than 7 days elapses from the date of obligation to the date of delivery of the livestock.

SEC. 103. IMPORT REPORTING.

(a) IN GENERAL.—The Secretary of Agriculture and the Secretary of Commerce shall, using modern data communications technology to provide the information to the public on as close to a real-time basis as practicable, jointly make available to the public aggregate price and quantity information on imported meat food products, livestock products, and livestock (as the terms are defined in section 2 of the Packers and Stockyards Act, 1921 (7 U.S.C. 182)).

(b) FIRST REPORT.—The Secretaries shall release to the public the first report under subsection (a) not later than 60 days after the date of enactment of this Act.

SEC. 104. PROTECTION OF LIVESTOCK PRODUCERS AGAINST RETALIATION BY PACKERS.

(a) RETALIATION PROHIBITED.—Section 202(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 192(b)), is amended—

(1) by striking ''or subject'' and inserting ''subject''; and

(2) by inserting before the semicolon at the end the following: '', or retaliate against any livestock producer on account of any statement made by the producer (whether made to the Secretary or a law enforcement agency or in a public forum) regarding an action of any packer''.

(b) SPECIAL REQUIREMENTS REGARDING ALLEGATIONS OF RETALIATION.—Section 203 of the Packers and Stockyards Act, 1921 (7 U.S.C. 193), is amended by adding at the end the following:

''(e) SPECIAL PROCEDURES REGARDING ALLEGATIONS OF RETALIATION.—

''(1) CONSIDERATION BY SPECIAL PANEL.—The President shall appoint a special panel consisting of 3 members to receive and initially consider a complaint submitted by any person that alleges prohibited packer retaliation under section 202(b) directed against a livestock producer.

''(2) COMPLAINT; HEARING.—If the panel has reason to believe from the complaint or resulting investigation that a packer has violated or is violating the retaliation prohibition under section 202(b), the panel shall notify the Secretary who shall cause a complaint to be issued against the packer, and a hearing conducted, under subsection (a).

''(3) EVIDENTIARY STANDARD.—In the case of a complaint regarding retaliation prohibited under section 202(b), the Secretary shall find that the packer involved has violated or is violating section 202(b) if the finding is supported by a preponderance of the evidence.''.

(c) DAMAGES FOR PRODUCERS SUFFERING RETALIATION.—Section 203 of the Packers and Stockyards Act, 1921 (7 U.S.C. 193) (as amended by subsection (b)), is amended by adding at the end the following:

''(f) DAMAGES FOR PRODUCERS SUFFERING RETALIATION.—

''(1) IN GENERAL.—If a packer violates the retaliation prohibition under section 202(b), the packer shall be liable to the livestock producer injured by the retaliation for not more than 3 times the amount of damages sustained as a result of the violation.

''(2) ENFORCEMENT.—The liability may be enforced either by complaint to the Secretary, as provided in subsection (e), or by suit in any court of competent jurisdiction.

''(3) OTHER REMEDIES.—This subsection shall not abridge or alter a remedy existing at common law or by statute. The remedy provided by this subsection shall be in addition to any other remedy.''.

SEC. 105. REVIEW OF FEDERAL AGRICULTURE CREDIT POLICIES.

The Secretary of Agriculture, in consultation with the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Board of the Farm Credit Administration, shall establish an interagency working group to study—

(1) the extent to which Federal lending practices and policies have contributed, or are contributing, to market concentration in the livestock and dairy sectors of the national economy; and

(2) whether Federal policies regarding the financial system of the United States adequately take account of the weather and price volatility risks inherent in livestock and dairy enterprises.

SEC. 106. STREAMLINING AND CONSOLIDATING THE UNITED STATES FOOD INSPECTION SYSTEM.

(a) PREPARATION.—In consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and all other interested parties, the President shall prepare a plan to consolidate the United States food inspection system that ensures the best use of available resources to improve the consistency, coordination, and effectiveness of the United States food inspection system, taking into account food safety risks.

(b) SUBMISSION.—Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress the plan prepared under subsection (a).

SEC. 107. LABELING SYSTEM FOR MEAT AND MEAT FOOD PRODUCTS PRODUCED IN THE UNITED STATES.

(a) LABELING.—Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

''(g) LABELING OF MEAT OF UNITED STATES ORIGIN.—

''(1) IN GENERAL.—The Secretary shall develop a system for the labeling of carcasses, parts of carcasses, and meat produced in the United States from livestock raised in the United States, and meat food products produced in the United States from the carcasses, parts of carcasses, and meat, to indicate the United States origin of the carcasses, parts of carcasses, meat, and meat food products.

''(2) ASSISTANCE.—The Secretary shall provide technical and financial assistance to establishments subject to inspection under this title to implement the labeling system.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.''.

SEC. 108. SENSE OF SENATE ON INTERSTATE SHIPMENT OF STATE-INSPECTED MEAT, POULTRY, AND EGGS.

It is the sense of the Senate that—

(1) not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture should convene a public meeting of State inspection officials and all other interested parties to determine whether the interstate shipment of State-inspected meat, poultry, and egg products should be permitted; and

(2) the meeting should be structured to ensure that all parties are given an opportunity to present their views on the subject described in paragraph (1).

SEC. 109. EXCHANGE OF CATTLE PRODUCTION DATA WITH CANADA.

The Secretary of Agriculture shall seek immediate consultation with the Minister of Agriculture of Canada to provide for a regular monthly exchange of cattle production data, including cattle on feed, cattle slaughtered, and cattle and beef shipped to the United States.

TITLE II—MARKET ACCESS FOR UNITED STATES MEAT PRODUCTS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Meat Products Market Access Act of 1997''.

Subtitle A—Identification of Countries

SEC. 211. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The export of meat and meat products is of vital importance to the economy of the United States.

(2) In 1995, agriculture was the largest positive contributor to the United States merchandise trade balance with a trade surplus of $25,800,000,000.

(3) The growth of exports of United States meat and meat products should continue to be an important factor in improving the United States merchandise trade balance.

(4) Increasing exports of meat and meat products will increase farm income in the United States, thereby protecting family farms and contributing to the economic well-being of rural communities in the United States.

(5) Although the United States efficiently produces high-quality meat and meat products, United States producers cannot realize their full export potential because many foreign countries deny fair and equitable market access to United States agricultural products.

(6) The Foreign Agricultural Service estimates that United States agricultural exports are reduced by $4,700,000,000 annually due to unjustifiable imposition of sanitary and phytosanitary measures that deny or limit market access to United States products.

(7) The denial of fair and equitable market access for United States meat and meat products impedes the ability of United States farmers to export their products, thereby harming the economic interests of the United States.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to reduce or eliminate foreign unfair trade practices and to remove constraints on fair and open trade in meat and meat products;

(2) to ensure fair and equitable market access for exports of United States meat and meat products; and

(3) to promote free and fair trade in meat and meat products.

SEC. 212. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS.

(a) IDENTIFICATION REQUIRED.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end the following:

''SEC. 183. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS FOR MEAT AND MEAT PRODUCTS.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the annual report is required to be submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the 'Trade Representative') shall identify—

''(1) those foreign countries that—

''(A) deny fair and equitable market access to United States meat and meat products, or

''(B) apply standards for the importation of meat and meat products from the United States that are not related to public health concerns or cannot be substantiated by reliable analytical methods; and

''(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

''(b) SPECIAL RULES FOR IDENTIFICATIONS.—

''(1) CRITERIA.—In identifying priority foreign countries under subsection (a)(2), the

Trade Representative shall only identify those foreign countries—

''(A) that engage in or have the most onerous or egregious acts, policies, or practices that deny fair and equitable market access to United States meat and meat products,

''(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and

''(C) that are not—

''(i) entering into good faith negotiations, or

''(ii) making significant progress in bilateral or multilateral negotiations,

to provide fair and equitable market access to United States meat and meat products.

''(2) CONSULTATION AND CONSIDERATION REQUIREMENTS.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

''(A) consult with the Secretary of Agriculture and other appropriate officers of the Federal Government, and

''(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

''(3) FACTUAL BASIS REQUIREMENT.—The Trade Representative may identify a foreign country under subsection (a)(1) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

''(4) CONSIDERATION OF HISTORICAL FACTORS.—In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—

''(A) the history of meat and meat products trade relations with the foreign country, including any previous identification under subsection (a)(2), and

''(B) the history of efforts of the United States, and the response of the foreign country, to achieve fair and equitable market access for United States meat and meat products.

''(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

''(1) AUTHORITY TO ACT AT ANY TIME.—If information available to the Trade Representative indicates that such action is appropriate, the Trade Representative may at any time—

''(A) revoke the identification of any foreign country as a priority foreign country under this section, or

''(B) identify any foreign country as a priority foreign country under this section.

''(2) REVOCATION REPORTS.—The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

''(d) FAIR AND EQUITABLE MARKET ACCESS.—For purposes of this section, a foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product through the use of laws, procedures, practices, or regulations which—

''(1) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

''(2) constitute discriminatory nontariff trade barriers.

''(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of the action under subsection (c).

''(f) ANNUAL REPORT.—The Trade Representative shall, not later than the date by which countries are identified under subsection (a), transmit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the actions taken under this section during the 12 months preceding such report, and the reasons for such actions, including a description of progress made in achieving fair and equitable market access for United States meat and meat products.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 182 the following:

''Sec. 183. Identification of countries that deny market access for meat and meat products.''.

SEC. 213. INVESTIGATIONS.

(a) INVESTIGATION REQUIRED.—Subparagraph (A) of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)) is amended by inserting ''or 183(a)(2)'' after ''section 182(a)(2)'' in the matter preceding clause (i).

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 302(b)(2) of such Act is amended by inserting ''concerning intellectual property rights that is'' after ''any investigation''.

SEC. 214. AUTHORIZED ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

Section 301(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D)(iii)(II) and inserting ''; or''; and

(3) by adding at the end the following:

''(E) with respect to an investigation of a country identified under section 183(a)(1), to request that the Secretary of Agriculture (who, upon receipt of such a request, shall) direct the Food Safety and Inspection Service of the Department of Agriculture to review certifications for the facilities of such country that export meat and other agricultural products to the United States.''.

Subtitle B—Review of Third Country Meat Directive

SEC. 221. FINDINGS.

Congress makes the following findings:

(1) The European Union's Third Country Meat Directive has been used to decertify more than 400 United States facilities exporting beef and pork products to the European Union even though United States health inspection procedures are equivalent to those provided for in the Third Country Meat Directive.

(2) An effect of the decertifications is to prohibit the importation of United States beef and pork products into the European Union.

(3) As a result of the decertifications, the highly competitive United States pork industry loses as much as $60,000,000 each year from trade with European Union countries.

(4) In July 1987 and November 1990, at the request of affected United States industries, the United States initiated investigations under section 301 of the Trade Act of 1974 into the European Union's administration of the Third Country Meat Directive and sought resolution of the meat and pork trade problems through the dispute settlement process established under the General Agreement on Tariffs and Trade.

(5) The United States Trade Representative preliminarily concluded on October 10, 1992, that the European Union's administration of the Third Country Meat Directive created a burden on and restricted United States commerce.

(6) Bilateral talks, initiated as a result of that finding, resulted in an Exchange of Letters in which the United States and the European Union concluded that the meat inspection systems of the United States and the European Union provided ''equivalent safeguards against public health risks'' and agreed to take steps to resolve remaining differences regarding meat inspection.

(7) Even though the United States terminated the section 301 investigation as a result of the Exchange of Letters, the United States determined that the practices under investigation would have been actionable if an acceptable agreement had not been reached.

(8) United States meat and pork producers have displayed consistent interest in exporting products to the European Union and have undertaken substantial investment to take the steps specified by the Exchange of Letters.

(9) The European Union has failed to acknowledge changes in plant safety and inspection procedures undertaken in the United States specifically at the European Union's request and has not fulfilled its obligation to inspect and relist United States producers who have taken the steps specified by the Exchange of Letters.

(10) The actions of the European Union in conducting United States plant inspections places the European Union in violation of commitments made in the Exchange of Letters.

(11) The European Union, in addition to being a party to the Exchange of Letters, is a signatory to GATT 1994 and to the Agreement on the Application of Sanitary and Phytosanitary Measures, which requires that meat and pork inspection procedures under Department of Agriculture regulations be treated as equivalent to inspection procedures required by the European Union under the Third Country Meat Directive.

(12) Whenever a foreign country is not satisfactorily implementing an international trade measure or agreement, the United States Trade Representative is required under section 306(b)(1) of the Trade Act of 1974 (19 U.S.C. 2416(b)(1)) to determine the actions to be taken under section 301(a) of such Act.

SEC. 223. DEFINITIONS.

For purposes of this subtitle:

(1) EXCHANGE OF LETTERS.—The term ''Exchange of Letters'' means the exchange of letters concerning the application of the Community Third Country Directive, signed in May 1991 and November 1992, which constitute the agreement between the United States and the European Economic Community regarding the Third Country Meat Directive.

(2) GATT 1994.—The term ''GATT 1994'' means the General Agreement on Tariffs and Trade annexed to the WTO Agreement.

(3) THIRD COUNTRY MEAT DIRECTIVE; COMMUNITY THIRD COUNTRY DIRECTIVE.—The terms ''Third Country Meat Directive'' and ''Community Third Country Directive'' mean the European Union's Council Directive 72/462/EEC relating to inspection and certification of slaughter and processing plants that export meat and pork products to the European Union.

(4) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement establishing the World Trade Organization entered into on April 15, 1994.

SEC. 224. REQUIREMENT FOR DETERMINATION BY UNITED STATES TRADE REPRESENTATIVE.

Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall determine, for purposes of section 306(b)(1) of the Trade Act of 1974, whether the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement.

SEC. 225. REQUEST FOR DISPUTE SETTLEMENT.

If the United States Trade Representative determines under section 224 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other agreement, the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures applicable to the agreement.

SEC. 226. REVIEW OF CERTAIN MEAT FACILITIES.

(a) REVIEW BY FOOD SAFETY AND INSPECTION SERVICE.—If the United States Trade Representative determines pursuant to section 224 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement, the United States Trade Representative shall request the Secretary of Agriculture (who, upon receipt of the request, shall) direct the Food Safety and Inspection Service of the Department of Agriculture to review certifications for European Union facilities that import meat and other agricultural products into the United States.

(b) RELATIONSHIP TO USTR AUTHORITY.—The review authorized under subsection (a) is in addition to the authority of the United States Trade Representative to take actions described in section 301(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)).

By Mr. DASCHLE (for himself, Mr. BREAUX, Mr. KENNEDY, Mr. DODD, Ms. MIKULSKI, Mr. DORGAN, Mr. JOHNSON, Mr. ROCKEFELLER, Mr. KERRY, Ms. MOSELEY-BRAUN, Mr. REID, and Mr. LAUTENBERG):

S. 17. A bill to consolidate certain Federal job training programs by developing a system of vouchers to provide to dislocated workers and economically disadvantaged adults the opportunity to choose the type of job training that most closely meets the needs of such workers and adults, by establishing a one-stop career center system to provide high quality job training and employment-related services, and for other purposes; to the Committee on Labor and Human Resources.

THE WORKING AMERICANS OPPORTUNITY ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 17

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 ''Working Americans Opportunity Act''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) increasing international competition, technological advances, and structural changes in the economy of the United States present new challenges to private firms and public policymakers in creating a skilled workforce with the ability to adapt to change and progress;

(2) a substantial number of workers in the United States lose jobs due to the constantly changing world and national economies rather than cyclical downturns, with more than 2,000,000 full-time workers permanently displaced annually due to plant closures, production cutbacks, and layoffs;

(3) the current response of the Federal Government to dislocation and structural employment is a patchwork of categorical programs, with varying eligibility requirements and different sets of services and benefits;

(4) the lack of coherence among existing Federal job training programs creates administrative and regulatory obstacles that hamper the efforts of individuals who are seeking new jobs or reemployment;

(5) enacted in 1944, the Servicemen's Readjustment Act of 1944, (commonly known as the ''G.I. Bill of Rights''), helped millions of World War II veterans and, later, Korean and Vietnam War veterans, finance college educations and assisted in building the middle class of the United States;

(6) restructuring the current job training system, with respect to dislocated and disadvantaged workers, in a manner that is conceptually similar to the G.I. Bill of Rights will help millions of workers in the United States to become more competitive in today's dynamic world economy, in which most of the workers—

(A) can expect to move to new jobs a number of times, voluntarily or by layoff; and

(B) must upgrade their skills continuously;

(7) success in this ever-changing environment depends, in part, on an individual's effective management of the individual's career based on personal choice and reliable information;

(8) there is insufficient job market information and assistance regarding access to job training opportunities that lead to good employment opportunities;

(9) only a small fraction of individuals eligible for current Federal job training are now served, and by removing obstacles and layers of administrative costs, more funds will be made available to individuals to enable such individuals to receive the job training of their choice; and

(10) while the Federal Government proceeds to create a new marketplace for job training, the Federal Government must also maintain a commitment to providing intensive services to assist individuals who are economically disadvantaged adults.

(b) PURPOSES.—The purposes of this Act are to—

(1) enhance the choices available to dislocated workers, and economically disadvantaged adults, who want to upgrade their work skills and learn new skills to compete in a changing economy;

(2) enable individuals to make choices that are best for the careers of such individuals;

(3) consolidate job training programs and provide a simple voucher system that relies on individual choice and provides high quality job market information;

(4) allow an individual to tailor job training and education to the personal needs of such individual so that such individual may remain in long-term employment yet have the means to be flexible when necessary; and

(5) create a system that provides timely and reliable information to individuals to use to assist such individuals in making the best choices with respect to the use of vouchers for job training.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COMMUNITY-BASED ORGANIZATION.—The term ''community-based organization'' means a private nonprofit organization that—

(A) is representative of a community or a significant segment of a community; and

(B) provides job training and employment-related services.

(2) DISLOCATED WORKER.—

(A) IN GENERAL.—The term ''dislocated worker'' means an individual who—

(i) has been terminated or laid off, or has received a notice of termination or layoff, from employment, is eligible for or has exhausted entitlement to unemployment compensation, and is unlikely to return to a previous industry or occupation;

(ii) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(iii) has been unemployed long-term and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individual resides, including an older individual who may have substantial barriers to employment by reason of age;

(iv) was self-employed (including a farmer, a rancher, and a fisher) and is unemployed as a result of general economic conditions in the community in which such individual resides or because of a natural disaster, subject to regulations prescribed by the Secretary; or

(v) is an employee of the Department of Defense or of a private defense contractor who has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of the closure or realignment of a military installation, or a reduction in defense spending as determined by the Secretary of Defense.

(B) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—The Secretary of Labor shall establish categories of self-employed individuals and of economic conditions and natural disasters to which subparagraph (A)(iv) applies.

(C) SPECIAL RULE FOR DISPLACED HOMEMAKERS.—The term ''dislocated worker'' shall, for the purpose of applying provisions related to job training and employment-related services under titles I and III within a State, include a displaced homemaker (as defined by the Secretary of Labor in regulation), if the State determines that such definition of the term is appropriate and will not adversely affect the delivery of services to other dislocated workers in the State.

(3) ECONOMICALLY DISADVANTAGED ADULT.—The term ''economically disadvantaged adult'' means an individual who is age 18 or older and who had received an income, or is a member of a family that had received a total family income, for the 6-month period prior to application for the activity involved (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, does not exceed the higher of—

(A) the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for an equivalent period; or

(B) 70 percent of the lower living standard income level, for an equivalent period.

(4) JOB TRAINING PROVIDER.—The term ''job training provider'' means a public agency, private nonprofit organization, or private for-profit entity that delivers job training.

(5) SERVICE DELIVERY AREA.—The term ''service delivery area'' means an area established under section 101 of the Job Training Partnership Act (29 U.S.C. 1511).

(6) STATE.—The term ''State'', used to refer to a jurisdiction, means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(7) WORKFORCE DEVELOPMENT ENTITY.—The term ''workforce development entity'' means a private industry council as described in section 102 of the Job Training Partnership Act (29 U.S.C. 1512), or such successor entity as may be established by Federal statutory law specifically to serve as such entity.

TITLE I—JOB TRAINING VOUCHERS

SEC. 101. ESTABLISHMENT.

The Secretary of Labor shall, pursuant to the requirements of this title, establish a job training system that provides vouchers to individuals for the purpose of enabling the individuals to obtain job training.

SEC. 102. INDIVIDUAL CHOICE.

(a) IN GENERAL.—Upon notification of approval of an application submitted under section 104, an individual may receive a voucher for a 2-year period, beginning on the date on which the application is approved.

(b) USE OF VOUCHERS FOR JOB TRAINING.—

(1) IN GENERAL.—An individual who is a recipient of a voucher under subsection (a) may use such voucher to pay for job training obtained from a job training provider that meets the requirements of section 106.

(2) AUTHORIZED JOB TRAINING.—The job training described in paragraph (1) may include training through—

(A) associate degree and nondegree programs at—

(i) two- and four-year colleges;

(ii) vocational and technical education schools;

(iii) private for-profit and not-for-profit training organizations;

(iv) public agencies and schools; and

(v) community-based organizations;

(B) employer work-based training programs; and

(C) in the case of individuals who are economically disadvantaged adults, preemployment training programs.

SEC. 103. ELIGIBILITY.

An individual shall be eligible to receive a voucher under this title if such individual is—

(1) a dislocated worker; or

(2) an economically disadvantaged adult.

SEC. 104. OBTAINING A VOUCHER.

(a) APPLICATION.—An individual who desires to receive a voucher under this title shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

(b) ASSISTANCE TO APPLICANTS.—

(1) ONE-STOP CAREER CENTERS.—Each one-stop career center established under section 301 shall—

(A) provide applications for vouchers under this title to interested individuals, assist such individuals in completing such applications, and collect completed applications for determination of eligibility;

(B) provide performance-based information to the applicants relating to job training providers eligible to receive payment by vouchers in accordance with section 106;

(C) provide information to the applicants on—

(i) the local economy and availability of employment;

(ii) profiles of local industries; and

(iii) details of local labor market demand; and

(D) carry out such other duties relating to the voucher system as may be specified in regulations issued by the Secretary of Labor.

(2) CONFLICT OF INTEREST STANDARDS.—The Secretary of Labor shall issue regulations establishing procedures to ensure that a one-stop career center that is operated by an entity that is concurrently an eligible job training provider under the voucher system provides information to the applicants relating to the other eligible job training providers in the service delivery area in an objective and equitable manner.

SEC. 105. OVERSIGHT AND ACCOUNTABILITY.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall issue regulations that—

(1) specify the—

(A) voucher application requirements;

(B) form of the vouchers;

(C) use of the vouchers;

(D) method of redemption of the vouchers;

(E) most expeditious and effective process of distribution (consistent with the findings and purposes of this Act) of the vouchers to eligible individuals; and

(F) the arrangements necessary to phase in the voucher system in each State in a timely manner;

(2) specify the duties and responsibilities of job training providers under a voucher system under this title;

(3) specify the Federal and State responsibilities in oversight of job training providers, including the enforcement responsibilities and the determination of administrative costs with respect to the voucher system under this title; and

(4) specify the manner in which economically disadvantaged adults will receive adequate counseling and support services necessary to take full advantage of voucher assistance under this title.

(b) PUBLIC COMMENT.—In issuing regulations under subsection (a), the Secretary of Labor shall provide an opportunity for comment from the public, including the business community, labor organizations, and community-based organizations.

SEC. 106. ELIGIBILITY REQUIREMENTS FOR JOB TRAINING PROVIDERS.

(a) ELIGIBILITY REQUIREMENTS.—A job training provider shall be eligible to receive payment by vouchers under this title if such provider—

(1) is—

(A) eligible to participate in programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

(B) determined to be eligible under the procedure described in subsection (b); and

(2) provides the performance-based information required pursuant to subsection (c).

(b) ALTERNATIVE ELIGIBILITY PROCEDURE.—

(1) IN GENERAL.—The State shall establish an alternative eligibility procedure for job training providers desiring to receive payment by vouchers under this title, but that are not eligible to participate in programs under title IV of the Higher Education Act of 1965.

(2) PROCEDURE REQUIREMENTS.—In establishing the procedure described in paragraph (1), the State shall establish minimum acceptable levels of performance for job training providers based on factors and guidelines developed by the Secretary of Labor in consultation with the Secretary of Education. Such factors shall be comparable in rigor and scope to the provisions of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099a et seq.) that are used to determine the eligibility of an institution of higher education to participate in programs under such title and are appropriate to the type of job training provider seeking eligibility under this subsection and the nature of the job training to be provided.

(3) LIMITATION.—Notwithstanding paragraph (1), if the participation of an institution of higher education in any of the programs under title IV of the Higher Education Act of 1965 is terminated, such institution shall not be eligible to receive funds under this title for a period of 2 years beginning on the date of such termination.

(c) PERFORMANCE-BASED INFORMATION.—

(1) CONTENTS.—The Secretary of Labor shall identify performance-based information that is to be submitted by job training providers desiring to receive payment by vouchers under this title. Such information may include information relating to—

(A) the percentage of students completing the programs conducted by a job training provider;

(B) the rates of licensure of graduates of the programs conducted by such job training provider;

(C) the percentage of graduates of the programs conducted by such job training provider that meet industry-specific skill standards;

(D) the rates of placement and retention in employment, and earnings of, the graduates of the programs conducted by such job training provider;

(E) the percentage of graduates of the programs conducted by such job training provider who obtained employment in an occupation related to such programs conducted by such provider; and

(F) the warranties or guarantees provided by such job training provider relating to the skill levels or employment to be attained by graduates of the programs conducted by such provider.

(2) ADDITIONS.—The State may, pursuant to the approval of the Secretary of Labor, prescribe additional performance-based information that shall be submitted by job training providers pursuant to this subsection.

(d) ADMINISTRATION.—

(1) STATE AGENCY.—The Governor shall designate a State agency to collect, verify, and

disseminate the performance-based information submitted pursuant to subsection (c).

(2) APPLICATION.—A job training provider desiring to be eligible to receive funds under this title shall submit the information required under subsection (c) to the State agency designated under paragraph (1) at such time and in such form as such State agency may require.

(3) LIST OF ELIGIBLE PROVIDERS.—The State agency designated under paragraph (1) shall compile a list of eligible job training providers, accompanied by the performance-based information submitted, and disseminate such list and information to the one-stop career centers established under section 301, and other appropriate entities within the State.

(4) ACCURACY OF INFORMATION.—

(A) IN GENERAL.—If the State agency determines that a job training provider submitted inaccurate performance-based information under this subsection, such provider shall be disqualified from receiving funds under this title for a period of 2 years beginning on the date of such determination, unless such provider can demonstrate, to the satisfaction of the State agency designated pursuant to paragraph (1), that the information was provided in good faith.

(B) APPEAL.—The State shall establish a procedure for a job training provider to appeal a determination by a State agency that results in a disqualification under subparagraph (A). Such procedure shall provide an opportunity for a hearing and include appropriate time limits to ensure prompt resolution of the appeal.

(5) ASSISTANCE IN DEVELOPING INFORMATION.—The State agency designated under paragraph (1) may provide technical assistance to a job training provider in developing the performance-based information required under subsection (c). Such assistance may include facilitating the utilization of State administrative records, such as unemployment compensation wage records, and conducting other appropriate coordination activities.

(6) CONSULTATION.—The Secretary of Labor shall consult with the Secretary of Education regarding the eligibility of institutions of higher education to participate in programs under this title.

SEC. 107. EVALUATION OF VOUCHER SYSTEM.

The Secretary of Labor shall annually—

(1) monitor the effectiveness of the voucher system;

(2) evaluate the benefit of such system to voucher recipients under this title and the taxpayer; and

(3) submit information obtained from such evaluation to the appropriate committees of Congress.

SEC. 108. APPORTIONMENT OF FUNDS.

(a) IN GENERAL.—The Secretary of Labor shall, without in any way reducing the commitment of, or the level of effort by, the Federal Government to improve the job training, employment, and earnings of all workers and jobseekers (particularly in hard-to-serve communities), apportion sums appropriated under section 501 to each State for each fiscal year in accordance with subsections (b) and (c), to enable States and service delivery areas in the States to carry out this title and title III.

(b) ALLOCATION BY CATEGORY.—

(1) FUNDING FOR DISLOCATED WORKERS.—From the sums appropriated pursuant to section 501 for each fiscal year, the Secretary of Labor shall determine the portion of the sums to be made available for providing job training and employment-related services for dislocated workers under this title and title III, which shall be not less than the total amount made available to the States for such purpose for fiscal year 1997. The Secretary shall apportion such portion among the States, based on consideration of factors described in subsection (c), as appropriate.

(2) FUNDING FOR ECONOMICALLY DISADVANTAGED ADULTS.—From the sums appropriated pursuant to section 501 for each fiscal year, the Secretary of Labor shall determine the portion of the sums to be made available for providing job training and employment-related services for economically disadvantaged adults under this title and title III. The Secretary shall apportion such total amount among the States, based on consideration of factors described in subsection (c), as appropriate.

(c) CONSIDERATION OF FACTORS FOR APPORTIONMENT TO STATES.—The apportionment of the portions described in subsection (b) by the Secretary to each State shall be based on the following factors:

(1) The relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

(2) The relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States.

(3) The relative number of individuals who have been unemployed for 15 weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

(4) The relative number of economically disadvantaged adults who reside in each State as compared to the total number of such adults in all the States.

(d) STATE RESERVE.—

(1) DISLOCATED WORKER FUNDS.—From the amount apportioned to each State from the portion described in subsection (b)(1), the State may reserve to carry out State activities, including rapid response assistance (as described in section 314(b) of the Job Training Partnership Act, as in existence on the date of enactment of this Act (29 U.S.C. 1661c(b))) and State administration, an amount that is not greater than the proportion of funds reserved for State activities under title III of the Job Training Partnership Act, as in existence on such date (29 U.S.C. 1651 et seq.) for fiscal year 1997.

(2) ECONOMICALLY DISADVANTAGED ADULTS.—From the amount apportioned to each State from the portion described in subsection (b)(2), the State may reserve to carry out State activities, including State administration, an amount that is not greater than the proportion of funds reserved for State activities under part A of title II of the Job Training Partnership Act, as in existence on the date of enactment of this Act (29 U.S.C. 1601 et seq.) for fiscal year 1997.

(e) CONSIDERATION OF FACTORS FOR APPORTIONMENT TO SERVICE DELIVERY AREAS.—The apportionment of amounts received by each State under subsection (c), and not reserved under subsection (d), to service delivery areas within such State shall be based on the following factors:

(1) The relative number of unemployed individuals who reside in each service delivery area within the State as compared to the total number of unemployed individuals in all such service delivery areas.

(2) The relative excess number of unemployed individuals who reside in each service delivery area within the State as compared to the total excess number of unemployed individuals in all such service delivery areas.

(3) The relative number of individuals who have been unemployed for 15 weeks or more and who reside in each service delivery area within the State as compared to the total number of such individuals in all such service delivery areas.

(4) The relative number of economically disadvantaged adults who reside in each service delivery area within the State as compared to the total number of such adults in all such service delivery areas.

(f) FUNDS FOR VOUCHERS.—Not less than 75 percent of funds apportioned to a service delivery area under subsection (e) and used for job training under this Act by the service delivery area shall be made available in the form of vouchers to individuals in such area who are eligible under section 103.

(g) DEFINITION.—For purposes of this section, the term ''excess number of unemployed individuals'' means the number that represents unemployed individuals in excess of 4.5 percent of the civilian labor force in a State or service delivery area, as appropriate.

TITLE II—CONSOLIDATION OF FEDERAL JOB TRAINING PROGRAMS

SEC. 201. CONSOLIDATION OF PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the consolidation and streamlining of Federal job training programs should be accomplished without in any way reducing the commitment of, or the level of effort provided by, the Federal Government to improve the job training, employment, and earnings of all workers and jobseekers (particularly in hard-to-serve communities).

(b) REPEALS OF FEDERAL JOB TRAINING PROGRAMS.—The following provisions are repealed:

(1) Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)).

(2) Section 106(b)(7) of the Job Training Partnership Act (29 U.S.C. 1516(b)(7)).

(3) Section 123 of such Act (29 U.S.C. 1533).

(4) Section 204(d) of such Act (29 U.S.C. 1604(d)).

(5) Part A of title II of such Act (29 U.S.C. 1601 et seq.).

(6) Section 302(c) of such Act (29 U.S.C. 1652(c)).

(7) Part A of title III of such Act (29 U.S.C. 1661 et seq.).

(8) Section 325 of such Act (29 U.S.C. 1662d).

(9) Section 325A of such Act (29 U.S.C. 1662d–1).

(10) Section 326 of such Act (29 U.S.C. 1662e).

(11) Sections 301 through 303 of such Act (29 U.S.C. 1651 et seq.).

(12) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(13) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.).

(14) Subchapter I of chapter 421 of title 49, United States Code.

(15) Title II of Public Law 95-250 (92 Stat. 172).

TITLE III—EMPLOYMENT-RELATED INFORMATION AND SERVICES THROUGH ONE-STOP CAREER CENTERS

SEC. 301. ONE-STOP CAREER CENTERS.

(a) ESTABLISHMENT.—Each service delivery area receiving funds under this Act shall develop and implement a network of one-stop career centers for the area to provide access for jobseekers, workers, and businesses to a comprehensive array of high quality job training described in section 102(b)(2) and employment-related services (including provision of information) described in subsections (f) and (g).

(b) PROCEDURES.—Each workforce development entity for a service delivery area, in conjunction with the appropriate local chief elected official for the area, shall negotiate with the State a method for establishing one-stop career centers (including designating one-stop career center operators) for the area, consistent with criteria established by the Secretary of Labor.

(c) ELIGIBLE ENTITIES.—Each entity within the service delivery area that provides the

services specified in subsection (f) or (g) shall be eligible to be designated as a one-stop career center operator.

(d) PERFORMANCE STANDARDS.—The Secretary of Labor shall establish a performance standard system for assessing the performance of each one-stop career center operator.

(e) PERIOD OF SELECTION.—Each one-stop career center operator shall be designated for 2-year period. Every 2 years, the workforce development entity for a service delivery area shall reevaluate the designation of one-stop career center operators for the area, based on performance under the standards established under subsection (d).

(f) EMPLOYMENT-RELATED SERVICES TO INDIVIDUALS.—Each one-stop career center for a service delivery area may make available—

(1) outreach to make individuals aware of, and encourage the use of, services available from workforce development programs operating in the service delivery area;

(2) intake and orientation to the information and services available through the one-stop career center;

(3) assistance in filing initial claims for unemployment compensation;

(4) initial assessments (including appropriate testing) of the skill levels and service needs of individuals, including basic skills, occupational skills, work experience, employability, interest, aptitude, and supportive service needs;

(5) job search assistance, including resume and interview preparation and workshops;

(6) information relating to the supply, demand, price, and quality of job training available in each service delivery area in the State involved, including performance-based information provided pursuant to section 106(c);

(7) job market information, including—

(A) data on the local economy and availability of employment;

(B) profiles of local industries;

(C) details of local labor market demand; and

(D) local demographic and socioeconomic characteristics;

(8) referral to appropriate job training and employment services, and to other services described in this subsection, in the service delivery area;

(9) supportive services, including child care;

(10) job development; and

(11) counseling.

(g) EMPLOYMENT-RELATED SERVICES TO EMPLOYERS.—Each one-stop career center for a service delivery area may provide to employers, at the request of the employers—

(1) information relating to supply, demand, price, and quality of job training available in each service delivery area in the State;

(2) customized screening and referral of individuals for employment;

(3) customized assessment of skills of the workers of the employer;

(4) an analysis of the skill needs of the employer; and

(5) other specialized employment and training services.

SEC. 302. ACCESS TO INFORMATION.

(a) FINDINGS.—Congress finds that accurate, timely, and relevant data regarding employment, job training, job skills, and job training opportunities are useful for individuals making choices about the careers of such individuals.

(b) AUTHORITY.—The Secretary of Labor is authorized to make arrangements to develop and provide through one-stop career centers and other appropriate mechanisms relevant job market information to interested individuals, including voucher recipients under title I, jobseekers, employers, and workers.

SEC. 303. DIRECT LOANS TO UNITED STATES WORKERS.

(a) FINDINGS.—Congress finds that the William D. Ford Federal Direct Loan Program authorized by part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), is a valuable financing tool for United States workers who desire to take advantage of training and education programs, consistent with the goals of such workers, to learn new skills for careers that may bring higher salaries and improved quality of life.

(b) AWARENESS.—The Department of Education shall endeavor to make known the value and availability of direct loans through the William D. Ford Federal Direct Loan Program authorized by part D of title IV of the Higher Education Act of 1965 through cooperative arrangements with one-stop career centers, training and educational training programs, State agencies, and other Federal agencies.

TITLE IV—REPORTS AND PLANS

SEC. 401. CONSOLIDATION AND STREAMLINING.

(a) REPORT ON CONSOLIDATING NONCOVERED FEDERAL JOB TRAINING PROGRAMS.—Not later than January 1, 1998, and each year thereafter, the Secretary of Labor shall prepare and submit to Congress a report that describes how additional Federal job training programs not covered by this Act can be consolidated into a more integrated and accountable workforce development system that better meets the needs of jobseekers, workers, and business.

(b) PLAN ON USE OF COMMON DEFINITIONS, MEASURES, STANDARDS, AND CYCLES.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor shall develop a plan that, wherever practicable, requires the Federal job training programs to use common definitions, common outcome measures, common eligibility standards, and common funding cycles in order to make such training programs more accessible.

SEC. 402. REPORT RELATING TO INCOME SUPPORT.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) many dislocated workers and economically disadvantaged adults are unable to enroll in long-term job training because such workers and adults lack income support after unemployment compensation is exhausted;

(2) evidence suggests that long-term job training is among the most effective adjustment service in assisting dislocated workers and economically disadvantaged adults to obtain employment and enhance wages; and

(3) there is a need to identify options relating to how income support may be provided to enable dislocated workers and economically disadvantaged adults to participate in long-term job training.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall prepare and submit to Congress a report that—

(1) examines the need for income support to enable dislocated workers and economically disadvantaged adults to participate in long-term job training;

(2) identifies options relating to how such income support may be provided to such workers and adults; and

(3) contains such recommendations as the Secretary of Labor determines are appropriate.

TITLE V—GENERAL PROVISIONS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out titles I and III such sums as may be necessary for each of fiscal years 1998 through 2002.

(b) PROGRAM YEAR.—Appropriations for any fiscal year for activities carried out under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

SEC. 502. EFFECTIVE DATE.

This Act shall take effect on July 1, 1998.

By Mr. LAUTENBERG (for himself, Mr. BAUCUS, Mr. REID, Mr. MOYNIHAN, Mr. GRAHAM, Mrs. BOXER, Mr. WYDEN, Mr. LEVIN, Mr. TORRICELLI, Mr. BREAUX, and Mr. KENNEDY):

S. 18. A bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes; to the Committee on Environmental and Public Works.

THE BROWNFIELDS AND ENVIRONMENTAL CLEANUP ACT OF 1997

Mr. LAUTENBERG. Madam President, today along with Senators DASCHLE, BAUCUS, MOYNIHAN, GRAHAM, HARRY REID, BOXER, WYDEN, LEVIN, TORRICELLI, SARBANES, and BREAUX, I am introducing the Brownfields and Environmental Cleanup Act of 1997. This legislation is designed to foster the cleanup of potentially thousands of toxic waste sites across this country, and just as importantly this bill is about jobs, about revenue, and economic opportunity, because it will help turn abandoned industrial sites into engines of economic development.

Madam President, I have been interested for a long time now in the issue of these abandoned, underutilized and contaminated industrial sites, commonly known as brownfields. Our Nation's great industrial tradition was the lifeblood of our Nation's economy. But this industrial tradition also entailed tremendous environmental costs. Sites were contaminated, and then when the manufacturers, the companies left, the legacy remained behind. Today, decaying industrial plants define the skyline and contaminate the land in many of our urban areas. Their rusting frames, like aging skyscrapers, are a silent reminder of those manufacturers that left, taking inner-city jobs and often inner-city hope with them.

Yet, Madam President, in these foul fields may lie the seeds of urban revitalization, and I continue to feel as I did when I introduced similar legislation in 1993 and 1996, that a brownfields cleanup program can spur significant economic development and create jobs. This type of cleanup initiative makes good environmental sense and good business sense. To appreciate, one need only look at a few of the brownfields success stories from across the States. Now, these are sites again that do not qualify as a Superfund site because they are not toxic enough, but they lie there and they contaminate not only the aesthetics of the area but also the opportunity for jobs and for business investment.

A pilot project in Cleveland resulted in $3.2 million in private investment, a

$1 million increase on the local tax base, and more than 170 new jobs. In Elizabeth, NJ, a former municipal landfill will be turned by the fall of 1998 into a major mall with 5,000 employees.

Madam President, the potential for job creation across the country is enormous, and every revitalized brownfields may represent for someone a field of dreams, especially to an unemployed urban worker.

While fostering jobs, brownfield cleanup also means that dangerous contaminants are removed from our environment, and the scars of decades of neglected industrial waste which disfigure our cities and suburbs and even rural areas may be finally allowed to heal. The Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in this country of ours 100,000 of these brownfield sites that do not fall under Superfund because of lower levels of contamination.

What do we do? We can't just watch them keep these communities from revitalizing themselves. The risks posed by many of these sites may be relatively low and others even nonexistent, because brownfields are abandoned or underutilized industrial or commercial sites where expansion or redevelopment is complicated by real or even perceived, not really factually established, environmental contamination. But their full economic use is being stymied because there is no ready mechanism for getting them evaluated or, if necessary, cleaned up, even when the owner of the property is ready, willing and eager to do so.

In addition, prospective purchasers and developers are reluctant to get involved in transactions with these properties because of their concern, however minimal, they might potentially create enormous environmental liability.

The challenge is to turn these abandoned properties into thriving businesses that can generate needed jobs and act as a catalyst for economic development.

My legislation would provide financial assistance in the form of grants to local and State governments to inventory and evaluate brownfields sites. This would enable interested parties to know what would be required to clean the site and what reuse would best suit the property.

My bill would also provide grants to State and local governments to establish and capitalize low-interest loan programs. These funds would be loaned to current owners, prospective purchasers and municipalities to facilitate voluntary cleanup actions where traditional lending mechanisms are just not available. The minimum seed money involved in the program would leverage substantial economic payoffs, as well as turning lands which may be of negative worth into assets for the future.

The bill also would limit the potential liability of innocent buyers of these properties, and it would set a standard to gauge when parties couldn't have reasonably known that the property was contaminated. So there is no hidden liability in there. There is no sudden surprise for someone who conscientiously and innocently made an investment, and suddenly they find they are liable for far, far more than their initial investment.

Madam President, cleaning up brownfields will mean a safer environment and more jobs for places that badly need them. It will also send a message to those who want to invest in our urban areas that they don't have to leave the inner city in search of open space. They can build right there in our downtowns, the places that already have the services, the infrastructure and the people to do the job.

There has been bipartisan interest, Madam President, in addressing brownfields, both in the Senate and in the other body on the other side of the Capitol. I am hopeful we can move this legislation forward in a cooperative way with support of Members on both sides of the aisle.

I ask unanimous consent that a copy of the bill, a section-by-section analysis and a letter of endorsement from the Regional Planning Association, the country's oldest planning organization, be printed in the RECORD.

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

S. 18

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 ''Brownfields and Environmental Cleanup Act of 1997''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) past uses of land in the United States for industrial and commercial purposes have created many sites throughout the United States that have environmental contamination;

(2) Congress and the governments of States and political subdivisions of States have enacted laws to—

(A) prevent environmental contamination; and

(B) carry out response actions to correct past instances of environmental contamination;

(3) many sites are minimally contaminated, do not pose serious threats to human health or the environment, and can be satisfactorily remediated expeditiously with little government oversight;

(4) promoting the assessment, cleanup, and redevelopment of contaminated sites could lead to significant environmental and economic benefits, particularly in any case in which a cleanup can be completed quickly and during a period of time that meets short-term business needs;

(5) the private market demand for sites affected by environmental contamination frequently is reduced, often because of uncertainties regarding liability or potential cleanup costs of innocent landowners and prospective purchasers under Federal law;

(6) the abandonment or underutilization of brownfield sites impairs the ability of the Federal Government and the governments of States and political subdivisions of States to provide economic opportunities for the people of the United States, particularly the unemployed and economically disadvantaged;

(7) the abandonment or underuse of brownfield sites also results in the inefficient use of public facilities and services, as well as land and other natural resources, and extends conditions of blight in local communities;

(8) cooperation among Federal agencies, departments and agencies of States and political subdivisions of States, local community development organizations, and current owners and prospective purchasers of brownfield sites is required to accomplish timely response actions and the redevelopment or reuse of brownfield sites;

(9) there is a need to provide financial incentives and assistance to inventory and assess certain brownfield sites and facilitate the cleanup of the sites so that the sites may be redeveloped for beneficial uses; and

(10) there is a need for a program to—

(A) encourage cleanups of brownfield sites; and

(B) facilitate the establishment and enhancement of programs by States and local governments to foster cleanups of brownfield sites through capitalization of loan programs.

(b) PURPOSES.—The purposes of this Act are to create new business and employment opportunities through the economic redevelopment of brownfield sites that generally do not pose a serious threat to human health or the environment and to stimulate the assessment and cleanup of brownfield sites by—

(1) encouraging States and local governments to provide for the assessment and cleanup of brownfield sites that may not be remediated under other environmental laws (including regulations) in effect on the date of enactment of this Act;

(2) encouraging local governments and private parties, including local community development organizations, to participate in programs, such as State cleanup programs, that facilitate expedited response actions that are consistent with business needs at brownfield sites;

(3) directing the Administrator of the Environmental Protection Agency to establish programs that provide financial assistance to—

(A) facilitate site assessments of certain brownfield sites;

(B) encourage cleanup of appropriate brownfield sites through capitalization of loan programs; and

(C) encourage workforce development in areas adversely affected by contaminated properties; and

(4) reducing transaction costs and paperwork, and preventing needless duplication of effort and delay at all levels of government.

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL CLEANUP

SEC. 101. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BROWNFIELD SITE.—The term ''brownfield site'' means a facility that has or is suspected of having environmental contamination that—

(A) could prevent the timely use, development, reuse, or redevelopment of the facility; and

(B) is relatively limited in scope or severity and can be comprehensively assessed and readily analyzed.

(3) CONTAMINANT.—The term ''contaminant'' includes any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

(4) DISPOSAL.—The term ''disposal'' has the meaning given the term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(5) ENVIRONMENT.—The term ''environment'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) ENVIRONMENTAL CONTAMINATION.—The term ''environmental contamination'' means the existence at a facility of 1 or more contaminants that may pose a threat to human health or the environment.

(7) FACILITY.—The term ''facility'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(8) GRANT.—The term ''grant'' includes a cooperative agreement.

(9) GROUND WATER.—The term ''ground water'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(10) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(11) LOCAL GOVERNMENT.—The term ''local government'' has the meaning given the term ''unit of general local government'' in the first sentence of section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)), except that the term includes an Indian tribe.

(12) NATURAL RESOURCES.—The term ''natural resources'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(13) OWNER.—The term ''owner'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(14) PERSON.—The term ''person'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(15) PROSPECTIVE PURCHASER.—The term ''prospective purchaser'' means a prospective purchaser of a brownfield site.

(16) RELEASE.—The term ''release'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(17) RESPONSE ACTION.—The term ''response action'' has the meaning given the term ''response'' in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(18) SITE ASSESSMENT.—

(A) IN GENERAL.—The term ''site assessment'' means an investigation that determines the nature and extent of a release or potential release of a hazardous substance at a brownfield site and meets the requirements of subparagraph (B).

(B) INVESTIGATION.—For the purposes of this paragraph, an investigation that meets the requirements of this subparagraph—

(i) shall include—

(I) an onsite evaluation; and

(II) sufficient testing, sampling, and other field-data-gathering activities to accurately determine whether the brownfield site is contaminated and the threats to human health and the environment posed by the release of contaminants at the brownfield site; and

(ii) may include—

(I) review of such information regarding the brownfield site and previous uses as is available at the time of the review; and

(II) an offsite evaluation, if appropriate.

(19) STATE.—The term ''State'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

SEC. 102. INVENTORY AND ASSESSMENT GRANT PROGRAM.

(a) IN GENERAL.—The Administrator shall establish a program to award grants to States or local governments to inventory brownfield sites and to conduct site assessments of brownfield sites.

(b) SCOPE OF PROGRAM.—

(1) GRANT AWARDS.—To carry out subsection (a), the Administrator may, on approval of an application, provide financial assistance to a State or local government.

(2) GRANT APPLICATION.—An application for a grant under this section shall include, to the extent practicable, each of the following:

(A) An identification of the brownfield sites for which assistance is sought and a description of the effect of the brownfield sites on the community, including a description of the nature and extent of any known or suspected environmental contamination within the areas.

(B) A description of the need of the applicant for financial assistance to inventory brownfield sites and conduct site assessments.

(C) A demonstration of the potential of the grant assistance to stimulate economic development, including the extent to which the assistance will stimulate the availability of other funds for site assessment, site identification, or environmental remediation and subsequent redevelopment of the areas in which eligible brownfield sites are situated.

(D) A description of the local commitment as of the date of the application, which shall include a community involvement plan that demonstrates meaningful community involvement.

(E) A plan that shows how the site assessment, site identification, or environmental remediation and subsequent development will be implemented, including—

(i) an environmental plan that ensures the use of sound environmental procedures;

(ii) an explanation of the appropriate government authority and support for the project as in existence on the date of the application;

(iii) proposed funding mechanisms for any additional work; and

(iv) a proposed land ownership plan.

(F) A statement on the long-term benefits and the sustainability of the proposed project that includes—

(i) the ability of the project to be replicated nationally and measures of success of the project; and

(ii) to the extent known, the potential of the plan for each area in which an eligible brownfield site is situated to stimulate economic development of the area on completion of the environmental remediation.

(G) Such other factors as the Administrator considers relevant to carry out this title.

(3) APPROVAL OF APPLICATION.—

(A) IN GENERAL.—In making a decision whether to approve an application under paragraph (1), the Administrator shall—

(i) consider the need of the State or local government for financial assistance to carry out this section;

(ii) consider the ability of the applicant to carry out an inventory and site assessment under this section;

(iii) ensure a fair distribution of grant funds between urban and nonurban areas; and

(iv) consider such other factors as the Administrator considers relevant to carry out this section.

(B) GRANT CONDITIONS.—As a condition of awarding a grant under this section, the Administrator may, on the basis of the criteria considered under subparagraph (A), attach such conditions to the grant as the Administrator determines appropriate.

(4) GRANT AMOUNT.—The amount of a grant awarded to any State or local government under subsection (a) for inventory and site assessment of 1 or more brownfield sites shall not exceed $200,000.

(5) TERMINATION OF GRANTS.—If the Administrator determines that a State or local government that receives a grant under this subsection is in violation of a condition of a grant referred to in paragraph (3)(B), the Administrator may terminate the grant made to the State or local government and require full or partial repayment of the grant.

SEC. 103. GRANTS FOR REVOLVING LOAN PROGRAMS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Administrator shall establish a program to award grants to be used by State or local governments to capitalize revolving loan funds for the cleanup of brownfield sites.

(2) LOANS.—The loans may be provided by the State or local government to finance cleanups of brownfield sites by the State or local government, or by an owner or a prospective purchaser of a brownfield site (including a local government) at which a cleanup is being conducted or is proposed to be conducted.

(b) SCOPE OF PROGRAM.—

(1) IN GENERAL.—

(A) GRANTS.—In carrying out subsection (a), the Administrator may award a grant to a State or local government that submits an application to the Administrator that is approved by the Administrator.

(B) USE OF GRANT.—The grant shall be used by the State or local government to capitalize a revolving loan fund to be used for cleanup of 1 or more brownfield sites.

(C) GRANT APPLICATION.—An application for a grant under this section shall be in such form as the Administrator determines appropriate. At a minimum, the application shall include the following:

(i) Evidence that the grant applicant has the financial controls and resources to administer a revolving loan fund in accordance with this title.

(ii) Provisions that—

(I) ensure that the grant applicant has the ability to monitor the use of funds provided to loan recipients under this title;

(II) ensure that any cleanup conducted by the applicant is protective of human health and the environment; and

(III) ensure that any cleanup funded under this Act will comply with all applicable Federal and State laws that apply to the cleanup.

(iii) Identification of the criteria to be used by the State or local government in providing for loans under the program. The criteria shall include the financial standing of the applicants for the loans, the use to which the loans will be put, the provisions to be used to ensure repayment of the loan funds, and the following:

(I) A complete description of the financial standing of the applicant that includes a description of the assets, cash flow, and liabilities of the applicant.

(II) A written statement that attests that the cleanup of the site would not occur without access to the revolving loan fund.

(III) The proposed method, and anticipated period of time required, to clean up the environmental contamination at the brownfield site.

(IV) An estimate of the proposed total cost of the cleanup to be conducted at the brownfield site.

(V) An analysis that demonstrates the potential of the brownfield site for stimulating economic development on completion of the cleanup of the brownfield site.

(2) GRANT APPROVAL.—In determining whether to award a grant under this section, the Administrator shall consider—

(A) the need of the State or local government for financial assistance to clean up brownfield sites that are the subject of the application, taking into consideration the financial resources available to the State or local government;

(B) the ability of the State or local government to ensure that the applicants repay the loans in a timely manner;

(C) the extent to which the cleanup of the brownfield site or sites would reduce health and environmental risks caused by the release of contaminants at, or from, the brownfield site or sites;

(D) the demonstrable potential of the brownfield site or sites for stimulating economic development on completion of the cleanup;

(E) the demonstrated ability of the State or local government to administer such a loan program;

(F) the demonstrated experience of the State or local government regarding brownfield sites and the reuse of contaminated land, including whether the government has received any grant under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) to assess brownfield sites, except that applicants who have not previously received such a grant may be considered for awards under this section;

(G) the efficiency of having the loan administered by the level of government represented by the applicant entity;

(H) the experience of administering any loan programs by the entity, including the loan repayment rates;

(I) the demonstrations made regarding the ability of the State or local government to ensure a fair distribution of grant funds among brownfield sites within the jurisdiction of the State or local government; and

(J) such other factors as the Administrator considers relevant to carry out this section.

(3) GRANT AMOUNT.—The amount of a grant made to a State or local applicant under this section shall not exceed $500,000.

(4) REVOLVING LOAN FUND APPROVAL.—Each application for a grant to capitalize a revolving loan fund under this section shall, as a condition of approval by the Administrator, include a written statement by the State or local government that—

(A) cleanups to be funded under the loan program of the State or local government shall be conducted under the auspices of, and in compliance with, the State voluntary cleanup program or State Superfund program or Federal authority;

(B) the cleanup or proposed voluntary cleanup is cost-effective; and

(C) the estimated total cost of the cleanup is reasonable.

(c) GRANT AGREEMENTS.—Each grant under this section for a revolving loan fund shall be made pursuant to a grant agreement. At a minimum, the grant agreement shall include provisions that ensure the following:

(1) COMPLIANCE WITH LAW.—The grant recipient will include in all loan agreements a requirement that the loan recipient shall comply with all applicable Federal and State laws applicable to the cleanup and shall ensure that the cleanup is protective of human health and the environment.

(2) REPAYMENT.—The State or local government will require repayment of the loan consistent with this title.

(3) USE OF FUNDS.—The State or local government will use the funds solely for purposes of establishing and capitalizing a loan program in accordance with this title and of cleaning up the environmental contamination at the brownfield site or sites.

(4) REPAYMENT OF FUNDS.—The State or local government will require in each loan agreement, and take necessary steps to ensure, that the loan recipient will use the loan funds solely for the purposes stated in paragraph (3), and will require the return of any excess funds immediately on a determination by the appropriate State or local official that the cleanup has been completed.

(5) NONTRANSFERABILITY.—The funds will not be transferable, unless the Administrator agrees to the transfer in writing.

(6) LIENS.—

(A) DEFINITIONS.—In this paragraph, the terms ''security interest'' and ''purchaser'' have the meanings given the terms in section 6323(h) of the Internal Revenue Code of 1986.

(B) LIENS.—A lien in favor of the grant recipient shall arise on the contaminated property subject to a loan under this section.

(C) COVERAGE.—The lien shall cover all real property included in the legal description of the property at the time the loan agreement provided for in this section is signed, and all rights to the property, and shall continue until the terms and conditions of the loan agreement have been fully satisfied.

(D) TIMING.—The lien shall—

(i) arise at the time a security interest is appropriately recorded in the real property records of the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located; and

(ii) be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is or has been perfected under applicable State law before the notice has been filed in the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located.

(7) OTHER CONDITIONS.—The State or local government will comply with such other terms and conditions as the Administrator determines are necessary to protect the financial interests of the United States and to protect human health and the environment.

(d) AUDITS.—

(1) IN GENERAL.—The Inspector General of the Environmental Protection Agency shall audit a portion of the grants awarded under this section to ensure that all funds are used for the purposes set forth in this section.

(2) FUTURE GRANTS.—The result of the audit shall be taken into account in awarding any future grants to the State or local government.

SEC. 104. ECONOMIC REDEVELOPMENT GRANTS.

(a) EXPENDITURES FROM THE SUPERFUND.—Amounts in the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986 shall be made available consistent with, and for the purposes of carrying out, the grant programs established under sections 102 and 103.

(b) AUTHORITY TO AWARD GRANTS.—There is authorized to be appropriated from the Hazardous Substance Superfund for grants to State and local governments under sections 102 and 103, $25,000,000 for each of fiscal years 1998 through 2002.

SEC. 105. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and not later than January 31 of each of the 3 calendar years thereafter, the Administrator shall prepare and submit a report describing the results of each program established under this title to—

(1) the Committee on Environment and Public Works of the Senate; and

(2) the Committee on Commerce of the House of Representatives.

(b) CONTENTS OF REPORT.—Each report shall, with respect to each of the programs established under this title, include a description of—

(1) the number of applications received by the Administrator during the preceding calendar year;

(2) the number of applications approved by the Administrator during the preceding calendar year; and

(3) the allocation of assistance under sections 102 and 103 among the States and local governments.

SEC. 106. LIMITATIONS ON USE OF FUNDS.

(a) EXCLUDED FACILITIES.—A grant for site inventory and assessment under section 102 or to capitalize a revolving loan fund under section 103 may not be used for any activity involving—

(1) a facility that is the subject of a planned or an ongoing response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), except for a facility for which a preliminary assessment, site investigation, or removal action has been completed and with respect to which the Administrator has decided not to take further response action, including cost recovery action;

(2) a facility included, or proposed for inclusion, on the National Priorities List maintained by the Administrator under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(3) a facility with respect to which a record of decision, other than a no-action record of decision, has been issued by the President under section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604) with respect to the facility;

(4) a facility that is subject to corrective action under section 3004(u), 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

(5) any land disposal unit with respect to which a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted and closure requirements have been specified in a closure plan or permit;

(6) a facility at which there has been a release of a polychlorinated biphenyl and that is subject to the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(7) a facility with respect to which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(B) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(D) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

(E) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(8) a facility at which assistance for response activities may be obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986; and

(9) a facility owned or operated by a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe.

(b) FINES AND COST-SHARING.—A grant made under this title may not be used to pay any fine or penalty owed to a State or the Federal Government, or to meet any Federal cost-sharing requirement.

(c) OTHER LIMITATIONS.—

(1) IN GENERAL.—Funds made available to a State or local government under the grant programs established under sections 102 and 103 shall be used only to inventory and assess brownfield sites as authorized by this title and for capitalizing a revolving loan fund as authorized by this title, respectively.

(2) RESPONSIBILITY FOR CLEANUP ACTION.—Funds made available under this title may not be used to relieve a local government or State of the commitment or responsibilities of the local government or State under State law to assist or carry out cleanup actions at brownfield sites.

SEC. 107. EFFECT ON OTHER LAWS.

Nothing in this title affects the liability or response authorities for environmental contamination under any other law (including any regulation), including—

(1) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(4) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

(5) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

SEC. 108. REGULATIONS.

(a) IN GENERAL.—The Administrator may issue such regulations as are necessary to carry out this title.

(b) PROCEDURES AND STANDARDS.—The regulations shall include such procedures and standards as the Administrator considers necessary, including procedures and standards for evaluating an application for a grant or loan submitted under this title.

SEC. 109. AUTHORIZATIONS OF APPROPRIATIONS.

(a) SITE ASSESSMENT PROGRAM.—There is authorized to be appropriated to carry out section 102 $10,000,000 for each of fiscal years 1998 through 2002.

(b) ECONOMIC REDEVELOPMENT ASSISTANCE PROGRAM.—There is authorized to be appropriated to carry out section 103 $15,000,000 for each of fiscal years 1998 through 2002.

(c) AVAILABILITY OF FUNDS.—The amounts appropriated under this section shall remain available until expended.

TITLE II—PROSPECTIVE PURCHASERS

SEC. 201. LIMITATIONS ON LIABILITY FOR RESPONSE COSTS FOR PROSPECTIVE PURCHASERS.

(a) LIMITATIONS ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

''(n) LIMITATIONS ON LIABILITY FOR PROSPECTIVE PURCHASERS.—Notwithstanding paragraphs (1) through (4) of subsection (a), to the extent the liability of a person, with respect to a release or the threat of a release from a facility, is based solely on subsection (a)(1), the person shall not be liable under this Act if the person—

''(1) is a bona fide prospective purchaser of the facility; and

''(2) does not impede the performance of any response action or natural resource restoration at a facility.''.

(b) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended by subsection (a)) is amended by inserting after subsection (n) the following:

''(o) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

''(1) IN GENERAL.—In any case in which there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (n), and the conditions described in paragraph (3) are met, the United States shall have a lien on the facility, or may obtain, from the appropriate responsible party or parties, a lien on other property or other assurances of payment satisfactory to the Administrator, for the unrecovered costs.

''(2) AMOUNT; DURATION.—The lien—

''(A) shall be for an amount not to exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

''(B) shall arise at the time costs are first incurred by the United States with respect to a response action at the facility;

''(C) shall be subject to the requirements for notice and validity specified in subsection (l)(3); and

''(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.

''(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

''(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

''(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed on the date that is 180 days before the response action was commenced.''.

(c) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

''(39) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person who acquires ownership of a facility after the date of enactment of the Brownfields and Environmental Cleanup Act of 1997, or a tenant of such a person, who can establish each of the following by a preponderance of the evidence:

''(A) DISPOSAL PRIOR TO ACQUISITION.—All active disposal of hazardous substances at the facility occurred before the person acquired the facility.

''(B) INQUIRY.—

''(i) IN GENERAL.—The person made all appropriate inquiry into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.

''(ii) STANDARDS.—The standards and practices issued by the Administrator under paragraph (35)(B)(ii) shall satisfy the requirements of this subparagraph.

''(iii) RESIDENTIAL PROPERTY.—In the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a site inspection and title search that reveal no basis for further investigation shall satisfy the requirements of this subparagraph.

''(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

''(D) CARE.—The person exercised appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to—

''(i) stop ongoing releases;

''(ii) prevent threatened future releases of hazardous substances; and

''(iii) prevent or limit human or natural resource exposure to hazardous substances previously released into the environment.

''(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and facility access to such persons as are authorized to conduct response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

''(F) RELATIONSHIP.—The person is not liable, or is not affiliated with any other person that is potentially liable, for response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.''.

TITLE III—INNOCENT LANDOWNERS

SEC. 301. INNOCENT LANDOWNERS.

(a) KNOWLEDGE OF INQUIRY REQUIREMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended by striking subparagraph (B) and inserting the following:

''(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

''(i) DEFINITION OF CONTAMINATION.—In this subparagraph, the term 'contamination' means an existing release, a past release, or the threat of a release of a hazardous substance.

''(ii) REQUIREMENT.—

''(I) INQUIRY.—To establish that the defendant had no reason to know (under subparagraph (A)(i)), the defendant must have made, at the time of the acquisition, all appropriate inquiry (as well as comply with clause (vii)) into the previous ownership and uses of the facility, consistent with good commercial or customary practice in an effort to minimize liability.

''(II) CONSIDERATIONS.—For the purpose of subclause (I) and until the President issues or designates standards as provided in clause (iv), the court shall take into account—

''(aa) any specialized knowledge or experience on the part of the defendant;

''(bb) the relationship of the purchase price to the value of the property if uncontaminated;

''(cc) commonly known or reasonably ascertainable information about the property;

''(dd) the obviousness of the presence or likely presence of contamination at the property; and

''(ee) the ability to detect the contamination by appropriate investigation.

''(iii) CONDUCT OF ENVIRONMENTAL ASSESSMENT.—A person who has acquired real property shall be considered to have made all appropriate inquiry within the meaning of clause (ii)(I) if—

''(I) the person establishes that, within 180 days prior to the date of acquisition, an environmental site assessment of the real property was conducted that meets the requirements of clause (iv); and

''(II) the person complies with clause (vii).

''(iv) ENVIRONMENTAL SITE ASSESSMENT.—

''(I) IN GENERAL.—An environmental site assessment meets the requirements of this clause if the assessment is conducted in accordance with the standards set forth in the American Society for Testing and Materials (ASTM) Standard E1527–94, titled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process' or with any alternative standards issued by regulation by the President or issued or developed by other entities and designated by regulation by the President.

''(II) STUDY OF PRACTICES.—Before issuing or designating alternative standards under subclause (I), the President shall conduct a study of commercial and industrial practices concerning environmental site assessments in the transfer of real property in the United States.

''(v) CONSIDERATIONS IN ISSUING STANDARDS.—In issuing or designating any standards under clause (iv), the President shall consider requirements governing each of the following:

''(I) Conduct of an inquiry by an environmental professional.

''(II) Interviews of each owner, operator, and occupant of the property to determine information regarding the potential for contamination.

''(III) Review of historical sources as necessary to determine each previous use and occupancy of the property since the property was first developed. In this subclause, the term 'historical sources' means any of the following, if reasonably ascertainable: each recorded chain of title document regarding the real property, including each deed, easement, lease, restriction, and covenant, any aerial photograph, fire insurance map, property tax file, United States Geological Survey 7.5 minutes topographic map, local street directory, building department record, and zoning/land use record, and any other source that identifies a past use or occupancy of the property.

''(IV) Determination of the existence of any recorded environmental cleanup lien against the real property that has arisen under any Federal, State, or local law.

''(V) Review of reasonably ascertainable Federal, State, and local government records of any facility that is likely to cause or contribute to contamination at the real property, including, as appropriate—

''(aa) any investigation report for the facility;

''(bb) any record of activities likely to cause or contribute to contamination at the real property, including any landfill or other disposal location record, underground storage tank record, hazardous waste handler and generator record, and spill reporting record; and

''(cc) any other reasonably ascertainable Federal, State, and local government environmental record that could reflect an incident or activity that is likely to cause or contribute to contamination at the real property.

''(VI) A visual site inspection of the real property and each facility and improvement on the real property and a visual site inspection of each immediately adjacent property, including an investigation of any hazardous substance use, storage, treatment, or disposal practice on the property.

''(VII) Any specialized knowledge or experience on the part of the person that acquired the property.

''(VIII) The relationship of the purchase price to the value of the property if uncontaminated.

''(IX) Commonly known or reasonably ascertainable information about the property.

''(X) The obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation.

''(vi) REASONABLY ASCERTAINABLE.—A record shall be considered to be reasonably ascertainable for purposes of clause (v) if a copy or reasonable facsimile of the record is publicly available by request (within reasonable time and cost constraints) and the record is practicably reviewable.

''(vii) APPROPRIATE INQUIRY.—A person shall not be treated as having made all appropriate inquiry under clause (ii)(I) unless—

''(I) the person has maintained a compilation of the information reviewed and gathered in the course of any environmental site assessment;

''(II) the person exercised appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to—

''(aa) stop ongoing releases of hazardous substances;

''(bb) prevent threatened future releases of hazardous substances; and

''(cc) prevent or limit human or natural resource exposure to hazardous substances previously released into the environment; and

''(III) the person provides full cooperation, assistance, and facility access to such persons as are authorized to conduct response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

''(viii) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a site inspection and title search that reveal no basis for further investigation shall satisfy the requirements of clause (ii).''.

(b) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency may—

(A) issue such regulations as the Administrator considers necessary to carry out the amendment made by this section; and

(B) delegate and assign any duties or powers imposed on or assigned to the Administrator by the amendment made by this section, including the authority to issue regulations.

(2) AUTHORITY TO CLARIFY AND IMPLEMENT.—The authority under paragraph (1) includes authority to clarify or interpret all terms, including the terms used in this section, and to implement any provision of the amendment made by this section.

SECTION-BY-SECTION SUMMARY OF THE BROWNFIELDS AND ENVIRONMENTAL CLEANUP ACT OF 1997

Section 1 states the short title: the ''Brownfields and Environmental Cleanup Act of 1997.''

Section 2(a) makes 10 findings summarizing the brownfields problem, and affirming a need for financial incentives and assistance to redevelop brownfield sites; and (b) states the purpose of the bill: economic redevelopment of the sites.

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL CLEANUP

Section 101 presents 19 definitions of terms used in the bill.

Section 102 Inventory and Assessment Grant Program. The bill directs EPA to establish a program of grants to local governments to inventory brownfield sites within their jurisdictions, and to conduct site characterizations of sites targeted for cleanup under a state cleanup program. It sets eight requirements of what the grant application must contain, and establishes the criteria EPA is to use in deciding whether to approve a grant. EPA may attach conditions to the grant award, and may terminate the grant if the conditions are violated. Grants may not exceed $200,000.

Section 103. Grants for Revolving Loan Programs. The bill directs EPA to establish a grant program for state and local governments to capitalize loan programs for site cleanup. The loan fund is to be used by the local or state entity to make loans to finance brownfield cleanups by the owner or a prospective purchaser of an affected site. The grant application must demonstrate the government's ability to manage a revolving loan program and oversee loans they grant under the program. Twelve factors to be considered by EPA in determining whether to award a grant are laid out. A loan program grant to a local or State applicant shall not exceed $500,000.

Section 104 authorizes $25 million to be appropriated from the Superfund for each of fiscal years 1997 through 2001 for the programs provided for in sections 101 and 102.

Section 105 requires EPA to submit an annual report to the congressional authorizing committees describing the achievements of each program, including the number of applications received and approved, and detailing the allocation of assistance among the states and local governments.

Section 106 limits how funds may be used. No grant may be used to pay fines or penalties to a state or the federal government, or for federal cost-sharing requirements. Nor may it be used to relieve a state or local government of its cleanup responsibility under state law at affected sites.

Section 107. Statutory Construction. The section states that nothing in this title is intended to affect the liability of response authorities of any other law, including the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or the Superfund Act), the Solid Waste Disposal Act, the Federal Water Pollution Control Act, and the Safe Drinking Water Act.

Section 108 authorizes EPA to promulgate regulations to carry out the Act.

Section 109 specifies that $10 million of the section 104 appropriation shall be for the section 101 site characterization program each year, and $15 million shall be for the section 102 economic redevelopment assistance program. The appropriations shall remain available until expended.

TITLE II—PROSPECTIVE PURCHASERS

Section 201(a). Liability Limitation. The bill amends section 107 of CERCLA, exempting a bona fide prospective purchaser from liability provided he does not impede the performance of response actions or natural resource restoration at a facility.

Section 1201(b). Windfall Lien. The bill further amends section 107 to give the United States a lien on the facility when a response action has been carried out at the facility and there are unrecovered response costs for which the prospective purchaser is not liable. Alternatively, the United States may obtain from the appropriate responsible party a lien on other property or other assurances of payment. The lien shall not be for

more than the increase in fair market value of the property attributable to the response action.

Section 201(c) amends section 101 of CERCLA to define ''bona fide prospective purchaser.'' The definition requires that: all disposal of hazardous substances occurred before the person acquired the facility; the purchaser made all appropriate inquiry into its previous ownership and uses; the person provided proper notice regarding the discovery of hazardous substances at the facility; he exercised appropriate care; he provided full cooperation, assistance, and facility access to those conducting the response action; and there is no family or business relationship with a potentially responsible party at the facility.

TITLE III—INNOCENT LANDOWNERS

Section 301(a) amends section 101(35) of CERCLA clarifying the exception from liability of innocent landowners. The requirements that such a person make ''all appropriate inquiry'' is satisfied if he has an environmental site assessment conducted within the 180 days preceding the acquisition of the property ''Environmental site assessment'' means one conducted in accordance with the American Society of Testing and Materials (ASTM) standard for a Phase I environmental site assessment (Standard E1527–94), or an alternative standard issued by the President. To be treated as having made ''all appropriate inquiry,'' a person must: (1) maintain a compilation of the information gathered in the course of the site assessment; (2) exercise appropriate care by stopping on-going releases, preventing threatened future releases, and limiting human and natural resource exposure to hazardous substances; and (3) provide full cooperation assistance, and facility access to persons conducting response actions at the facility. For the purposes of this subsection and 101(35) (the definition of ''contractual relationship''), the term ''contamination'' means an existing release, a past release, or the threat of a release.

The court shall take into account any specialized knowledge of the defendant, the relationship of the purchase price to the value of the property if uncontaminated, commonly known information about the property, the obviousness of the presence of contamination at the property, and the ability to detect the contamination. EPA shall issue or designate standards and practices that satisfy these requirements. The bill identifies 10 factors for EPA to consider in issuing the standards:

1. Conduct of an inquiry by an environmental professional.
2. Interviews with past and present owners, operators, and occupants of the facility.
3. A review of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records.
4. A search for recorded environmental liens, filed under Federal, state, or local law.
5. A review of Federal, state, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records.
6. A visual inspection of the facility, and adjoining properties.
7. Any specialized knowledge or experience on the part of the defendant.
8. The relationship of the purchase price to the value of the property if uncontaminated.
9. Commonly known or reasonably ascertainable information about the property.
10. The obviousness of the presence of contamination, and the ability to detect it by appropriate investigation.

In the case of a property for residential or similar use purchased by a nongovernmental or noncommercial entity, a site inspection and title search are sufficient to satisfy the requirements.

Section 301(b) authorizes EPA to issue regulations to carry out section 301, and gives it the authority to clarify or interpret all terms.

REGIONAL PLAN ASSOCIATION,
Newark, NJ, January 20, 1997.

Senator FRANK LAUTENBERG,
Hart Office Building, Washington, DC.

Re: Brownfields and Environmental Cleanup Act of 1997.

DEAR SENATOR LAUTENBERG: As Director of the New Jersey Office of Regional Plan Association, I am happy to support your proposed Brownfields and Environmental Cleanup Act. RPA is the country's oldest private, non profit regional planning organization charged with improving transportation, environmental conservation and economic development in the 31-county New York, New Jersey and Connecticut metropolitan area. RPA has been a leading force in brownfields redevelopment in New Jersey, having successfully coordinated the award-winning OENJ brownfields Model Redevelopment Project in Elizabeth, and overseeing the Legislative and Regulatory Reform committee of the EPA Brownfields Pilot Project in Newark.

The proposed Brownfields and Environmental Cleanup Act of 1997 will go a long way towards stimulating redevelopment of the region's abandoned, contaminated land. In particular, the provisions for local site characterization grants and site cleanup loans will provide an important incentive for local governments to prioritize and implement redevelopment of critical sites within their municipalities. The liability limitations under Section 201 are also important incentives at the federal level to encourage prospective purchasers to invest in brownfields redevelopment. Some of these provisions are being discussed at the State level in New Jersey. The passage of federal legislation will greatly assist our efforts to promote brownfields cleanup nationwide.

I am grateful for this opportunity to support your far-reaching legislation, and wish you the best of luck in its speedy passage.

Sincerely,

LINDA P. MORGAN,
Director.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Ms. MIKULSKI, Mr. ROCKEFELLER, Mrs. MURRAY, Mr. TORRICELLI, and Mrs. BOXER):

S. 19. A bill to provide funds for child care for low-income working families, and for other purposes; to the Committee on Labor and Human Resources

WORKING FAMILIES CHILD CARE ACT OF 1997

Mr. DODD. Mr. President, I rise today to introduce the Working Families Child Care Act of 1997.

Mr. President, balancing the daunting responsibilities of work with the responsibilities of raising children is always a difficult task. It is especially challenging when so many parents today are working outside the home and are forced to depend on child care.

Not surprisingly, these challenges are especially acute for low income, working families. In fact according to a national child care study, when compared to all other income groups, the working poor are the least likely to receive assistance with child care costs—even though it consumes a disproportionate share of their income—24 percent, compared to 6 percent for middle income families.

What's more, it's a constant struggle for low income families to remain self sufficient without child care assistance. In a survey of families on a waiting list in one community, it was found that of those paying for child care, 71 percent faced serious debt or bankruptcy.

Currently, in 38 States and the District of Columbia the working poor are on waiting lists to receive child care. Georgia has 41,000 on its waiting list; Texas 36,000; Illinois 20,000; Alabama 20,000. Most of the States which don't have a waiting list either don't keep one, are expecting to create one in the future, or currently are experiencing a brief respite.

In my own State of Connecticut, new openings for child care assistance were frozen in November 1993. When new slots became available, for only two days this past summer, 5,500 applications were received.

During the last Congress, we intensely debated the issue of child care—in the larger context of welfare reform legislation. The original welfare legislation in January 1995 cut funds for child care and eliminated critically important health and safety standards.

In the 104th Congress I continued to fight for child care, offering amendments to increase funding and ensure quality. While I disagreed with the final welfare reform bill, I am pleased that many of these amendments succeeded and that in the end, the final bill included child care funding of $14.2 billion over 6 years and restored rigorous health and safety standards.

However, while the bill we passed made significant and crucial strides in providing child care for welfare recipients—there is still work to be done.

The bill I am proposing today will address the issue of child care for low income working families and make it easier for them to access adequate child care assistance.

First, this legislation restores $1.4 billion in child care funding.

According to a recent CBO report, even if states meet the work requirements of the welfare bill they will still be short $1.4 billion for money needed to continue serving certain low income working families. These aren't new recipients we're talking about, but instead families who were receiving child care assistance prior to passage of welfare reform legislation.

The legislation I am introducing today will prevent working parents from losing child care assistance simply as a result of the welfare reform bill.

Second, it begins to address the shortage of assistance for working families, by raising the authorization for child care subsidies for low income working families from $1 billion per year to $2 billion per year.

And finally, it authorizes $500 million per year through 2002 to help communities meet supply shortages in areas such as infant care and school age care.

Even when subsidies are available, child care can be difficult to obtain. According to the National Academy of Sciences, there is ''Consistent evidence of a relatively low supply of care for infants, for school age children, for children with disabilities and special health care needs and for parents with unconventional or shifting work hours.''

What's more, a 1995 GAO study based in Michigan found a shortage of infant and special needs child care in inner cities and a shortage of all types of child care in rural areas. So, we're not simply talking about financial assistance for child care, but whether child care actually exists.

This shortage of child care is a problem for both working families and welfare recipients who want to become self-sufficient. How can we expect someone to make the difficult transition from welfare to work when they cannot find an adequate provider for an infant or are forced to have a 6, 7 or 8 year old spend hours alone at home when the school day ends?

This lack of supervision can have a devastating long-term impact. One study found that children who start to take care of themselves in elementary school are significantly more likely to report high use of alcohol by the eighth grade. Eighth graders left home alone for 11 or more hours a week report significantly greater use of cigarettes, alcohol, and marijuana then children not left home alone. We know all this, and yet only one third of the schools in low income neighborhoods offer school age child care, compared with 52 percent in more affluent areas.

For those struggling to make the difficult journey to self-sufficiency, the lack of available child care before 9, after 5, and on weekends can be an enormous problem. What's worse, such arrangements put the safety of a child in question.

The reality is that nearly 1 in 5 full time workers—14.3 million—work nonstandard hours. More than 1 in 3 are women. However, only 10 percent of child care centers and 6 percent of family day care provide care on weekends. Yet one third of working mothers with incomes below poverty and one fourth of mothers with income above poverty, but below $25,000, work on weekends.

An additional supply problem is that head start and other prekindergarten programs are part day and part year. As a result, they often do not meet the needs of parents who work full time. Less than 30 percent of Head Start programs operate on a full-time, full-year basis.

Simply put, child care funds need to be available to make these programs accessible for working parents. In my view, we as a nation have a solemn commitment to guarantee that children will not be left to fend for themselves while their parents are working to put food on the table.

Child care is one of the most important ingredients for helping poor working families achieve and maintain economic security. Like parents in any community and of any financial background, low income families need to know that when they go to work, their children will receive the care and assistance they need.

The bill I am introducing today will make it easier for low income, working families to balance the responsibilities of work and caring for their children. I urge all my colleagues to join together in supporting this legislation—for the good of America's children.

S. 19

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 ''Working Families Child Care Act of 1997''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Availability and affordability of quality child care is a major obstacle for working parents who struggle to remain self-sufficient.

(A) Compared to all other income groups, the working poor are the least likely to receive assistance with their child care costs.

(B) Low-income families spend 24 percent of their household income on child care, whereas middle-income families spend 6 percent of their household income on child care.

(C) 38 States have waiting lists for child care for the working poor. Among those States, Georgia has 41,000 individuals on its waiting list, Texas has 36,000 individuals on its waiting list, and Illinois and Alabama each have 20,000 individuals on their waiting lists.

(D) One survey of low-income families on a waiting list for subsidized child care found that of those families paying for child care out of their own funds, 71 percent faced serious debt or bankruptcy.

(E) Half of the States and the District of Columbia, even before the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193, 110 Stat. 2105) during the 104th Congress, increased the proportion of child care slots or dollars going to families on welfare, rather than to working poor families.

(2) The Congressional Budget Office estimates that there will be $1,400,000,000 less expenditures of child care funds for working poor families as a result of the States implementing the work requirements imposed under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193, 110 Stat. 2105).

(3) Important types of child care are not available in certain States including infant care, school-age care, care for children with disabilities and special health care needs, and child care for parents with unconventional or shifting work hours.

(A) A 1995 State study by the Comptroller General of the United States found a shortage of child care for infants and children with special needs in inner cities, and a shortage of all types of child care in rural areas.

(B) Only ⅓ of the schools in low-income neighborhoods offer school-age child care, compared with 52 percent of schools in more affluent areas offering such care.

(C) Eighth-graders who are left home alone for 11 or more hours a week report significantly greater use of cigarettes, alcohol, and marijuana than eighth-graders who are not left home alone.

(D) Existing child care arrangements do not accommodate the work schedules of many working women. According to a 1995 statistic published by the Department of Labor, 14,300,000 workers, nearly 1 in 5 full-time workers work nonstandard hours, and more than 1 in 3 of those workers are women.

(E) Only 10 percent of child care centers and 6 percent of family day care providers offer child care on weekends. Yet ⅓ of working mothers with annual incomes below the poverty level and ¼ of mothers with annual incomes above the poverty level but below $25,000 work on weekends.

(F) Less than 30 percent of Head Start programs operate on a full-time, full-year basis.

SEC. 3. ASSISTANCE FOR LOW-INCOME WORKING FAMILIES.

Section 658B of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended to read as follows:

''SEC. 658B. FUNDING OF GRANTS.

''(a) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in subsection (b), there is authorized to be appropriated to carry out this subchapter $2,000,000,000 for each of fiscal years 1997 through 2002.

''(b) APPROPRIATION.—The Secretary shall pay, from funds in the Treasury not otherwise appropriated, $1,400,000,000 for fiscal years 1997 through 2002, through the awarding of grants to States under this subchapter for the purpose of providing child care services for families who have left the State program of assistance under part A of title IV of the Social Security Act because of employment, families that are at risk of becoming dependent on such assistance program, and low-income working families described in section 658E(c)(3)(D). Funds shall be paid under this subsection to the States in the same manner, and subject to the same requirements and limitations, as funds are paid to the States under section 418 of the Social Security Act (42 U.S.C. 618).''.

SEC. 4. GRANTS FOR CHILD CARE SUPPLY SHORTAGES.

(a) GRANTS FOR CHILD CARE SUPPLY SHORTAGES.—Section 658E(c)(3) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended by adding at the end the following:

''(E) CHILD CARE SUPPLY SHORTAGES.—

''(i) IN GENERAL.—A State shall ensure that 100 percent of amounts paid to the State out of funds appropriated under section 658B(a)(2) with respect to each of the fiscal years 1997 through 2002 shall be used to carry out child care activities described in clause (ii) in geographic areas within the State that have a shortage, as determined by the State, in consultation with localities, of child care services.

''(ii) CHILD CARE ACTIVITIES DESCRIBED.—The child care activities described in this clause include the following:

''(I) Infant care programs.

''(II) Before- and after-school child care programs.

''(III) Resource and referral programs.

''(IV) Nontraditional work hours child care programs.

''(V) Extending the hours of pre-kindergarten programs to provide full-day services.

''(VI) Any other child care programs that the Secretary determines are appropriate.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 658B(a) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858(a)), as amended by section 2, is amended—

(1) by striking ''Except as provided in'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2) and''; and

(2) by adding at the end the following:

''(2) CHILD CARE SUPPLY SHORTAGES.—There is authorized to be appropriated to carry out section 658E(c)(3)(E), $500,000,000 for each of fiscal years 1997 through 2002.''.

(c) CONFORMING AMENDMENT.—Section 658(c)(3)(A) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)(A)) is amended by striking ''(D)'' and inserting ''(E)''.

SEC. 5. REPORT ON ACCESS TO CHILD CARE BY LOW-INCOME WORKING FAMILIES.

(a) STATE REPORTING REQUIREMENT.—Section 658K(a)(2) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858i(a)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end; and

(2) by inserting after subparagraph (E), the following:

''(F) the total number of families described in section 658B(b) that were eligible for but did not receive assistance under this subchapter or under section 418 of the Social Security Act and a description of the obstacles to providing such assistance; and

''(G) the total number of families described in section 658B(b) that received assistance provided under this subchapter or under section 418 of the Social Security Act and a description of the manner in which that assistance was provided;''.

(b) SECRETARIAL REPORTING REQUIREMENT.—Section 658L of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858j) is amended by inserting '', with particular emphasis on access of low-income working families,'' after ''public''.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193, 110 Stat. 2105).

By Mr. DASCHLE (for himself, Mr. REID, Mr. LIEBERMAN, Mr. DORGAN, Mr. BREAUX, Mr. KOHL, Mr. WYDEN, and Mr. BINGAMAN):

S. 20. A bill to amend the Internal Revenue Code of 1986 to increase the rate and spread the benefits of economic growth, and for other purposes; to the Committee on Finance.

TARGETED INVESTMENT INCENTIVE AND ECONOMIC GROWTH ACT OF 1997

Mr. DASCHLE. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 20

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Targeted Investment Incentive and Economic Growth Act of 1997''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act 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.

TITLE I—TAXATION OF CAPITAL GAINS AND LOSSES

SEC. 101. ROLLOVER OF CAPITAL GAINS ON CERTAIN SMALL BUSINESS INVESTMENTS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end the following new section:

''SEC. 1045. ROLLOVER OF GAIN ON SMALL BUSINESS INVESTMENTS.

''(a) NONRECOGNITION OF GAIN.—In the case of the sale of any eligible small business investment with respect to which the taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

''(1) the cost of any other eligible small business investment purchased by the taxpayer during the 6-month period beginning on the date of such sale, reduced by

''(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this subtitle.

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) PURCHASE.—The term 'purchase' has the meaning given such term by section 1043(b)(4).

''(2) ELIGIBLE SMALL BUSINESS INVESTMENT.—Except as otherwise provided in this section, the term 'eligible small business investment' means any stock in a domestic corporation, and any partnership interest in a domestic partnership, which is originally issued after December 31, 1996, if—

''(A) as of the date of issuance, such corporation or partnership is a qualified small business entity,

''(B) such stock or partnership interest is acquired by the taxpayer at its original issue (directly or through an underwriter)—

''(i) in exchange for money or other property (not including stock), or

''(ii) as compensation for services (other than services performed as an underwriter of such stock or partnership interest), and

''(C) the taxpayer has held such stock or interest at least 6 months as of the time of the sale described in subsection (a).

A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this section.

''(3) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation, and a partnership interest in a partnership, shall not be treated as an eligible small business investment unless, during substantially all of the taxpayer's holding period for such stock or partnership interest, such corporation or partnership meets the active business requirements of subsection (c). A rule similar to the rule of section 1202(c)(2)(B) shall apply for purposes of this section.

''(4) QUALIFIED SMALL BUSINESS ENTITY.—

''(A) IN GENERAL.—The term 'qualified small business entity' means any domestic corporation or partnership if—

''(i) such entity (and any predecessor thereof) had aggregate gross assets (as defined in section 1202(d)(2)) of less than $25,000,000 at all times before the issuance of the interest described in paragraph (2), and

''(ii) the aggregate gross assets (as so defined) of the entity immediately after the issuance (determined by taking into account amounts received in the issuance) are less than $25,000,000.

''(B) AGGREGATION RULES.—Rules similar to the rules of section 1202(d)(3) shall apply for purposes of this paragraph.

''(c) ACTIVE BUSINESS REQUIREMENT.—

''(1) IN GENERAL.—For purposes of subsection (b)(3), the requirements of this subsection are met by a qualified small business entity for any period if—

''(A) the entity is engaged in the active conduct of a trade or business, and

''(B) at least 80 percent (by value) of the assets of such entity are used in the active conduct of a qualified trade or business (within the meaning of section 1202(e)(3)).

Such requirements shall not be treated as met for any period if during such period the entity is described in subparagraph (A), (B), (C), or (D) of section 1202(e)(4).

''(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, an entity is engaged in—

''(A) startup activities described in section 195(c)(1)(A),

''(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

''(C) activities with respect to in-house research expenses described in section 41(b)(4),

such entity shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether the entity has any gross income from such activities at the time of the determination.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), (7), and (8) of section 1202(e) shall apply for purposes of this subsection.

''(d) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (f), (g), (h), and (j) of section 1202 shall apply for purposes of this section, except that a 6-month holding period shall be substituted for a 5-year holding period where applicable.

''(e) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any eligible small business investment which is purchased by the taxpayer during the 6-month period described in subsection (a).

''(f) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on the sale or exchange of any eligible small business investment and there is in effect an election under subsection (a) with respect to such gain, then—

''(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

''(A) the taxpayer's cost of purchasing other eligible small business investments which the taxpayer claims results in nonrecognition of any part of such gain,

''(B) the taxpayer's intention not to purchase other eligible small business investments within the 6-month period described in subsection (a), or

''(C) a failure to make such purchase within such 6-month period, and

''(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the

avoidance of the purposes of this section through splitups, shell corporations, partnerships, or otherwise and regulations to modify the application of section 1202 to the extent necessary to apply such section to a partnership rather than a corporation.''

(b) CONFORMING AMENDMENT.—Paragraph (23) of section 1016(a) is amended—

(1) by striking ''or 1044'' and inserting '', 1044, or 1045'', and

(2) by striking ''or 1044(d)'' and inserting '', 1044(d), or 1045(e)''.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

''Sec. 1045. Rollover of gain on small business investments.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

SEC. 102. LOSSES ON ELIGIBLE SMALL BUSINESS INVESTMENTS.

(a) INCREASE IN MAXIMUM AMOUNT.—Section 1244(b) (relating to maximum amount for any taxable year) is amended—

(1) by striking ''$50,000'' in paragraph (1) and inserting ''$150,000'', and

(2) by striking ''$100,000'' in paragraph (2) and inserting ''$300,000''.

(b) EXTENSION OF APPLICATION OF SECTION 1244 TO PARTNERSHIP INTEREST AND INCREASE IN VALUE OF CORPORATIONS ELIGIBLE FOR APPLICATION.—

(1) EXTENSION TO PARTNERSHIPS.—So much of section 1244(c) as precedes paragraph (2) is amended to read as follows:

''(c) SECTION 1244 INTEREST DEFINED.—

''(1) SECTION 1244 INTEREST.—For purposes of this section—

''(A) IN GENERAL.—The term 'section 1244 interest' means an eligible small business investment (as defined in section 1045(b)(1)) in a qualified small business entity (as defined in section 1045(b)(4)) if such entity, during the period of its 5 most recent taxable years ending before the date the loss on such investment was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities.

''(B) TRANSITION RULE.—Any stock in a domestic corporation issued before January 1, 1997, which was section 1244 stock under this section on December 31, 1996 (determined under this section as in effect on such date), shall be treated as a section 1244 interest for purposes of this section.''

(2) CONFORMING AMENDMENTS.—

(A) Section 1244(a) is amended by striking ''section 1244 stock'' and inserting ''a section 1244 interest''.

(B) Section 1244(c)(2) is amended—

(i) by striking ''PARAGRAPH (1)(C)'' in the heading and inserting ''PARAGRAPH (1)'',

(ii) by striking ''paragraph (1)(C)'' each place it appears and inserting ''paragraph (1)'',

(iii) by striking ''corporation'' each place it appears and inserting ''entity'', and

(iv) by striking ''Paragraph (1)(C)'' in subparagraph (C) and inserting ''Paragraph (1)''.

(C) Section 1244(c) is amended by striking paragraph (3).

(D) Section 1244(d) is amended—

(i) by striking ''section 1244 stock'' each place it appears and inserting ''a section 1244 interest'',

(ii) by striking ''stock'' each place it appears and inserting ''interest'',

(iii) by striking ''paragraphs (1)(C) and (3)(A) of subsection (c)'' in paragraph (2) and inserting ''subsection (c)(1)'', and

(iv) by striking ''(other than subparagraph (C) thereof)'' and inserting ''(other than the gross receipts test thereof)''.

(E)(i) The heading for section 1244 is amended by striking ''**stock**'' and inserting ''**interest**''.

(ii) The item relating to section 1244 in the table of sections for part IV of subchapter P of chapter 1 is amended by striking ''stocks'' and inserting ''interests''.

(F) Section 165(m)(5) is amended by striking ''stock'' and inserting ''interests''.

(G) Section 1274(c)(3)(A)(i) is amended—

(i) by inserting '', as in effect on the day before the date of enactment of subclause (IV)'' after ''section 1244(c)(3)'' in subclauses (II) and (III),

(ii) by striking ''or'' at the end of subclause (II),

(iii) by striking the period at the end of subclause (III) and inserting '', or'', and

(iv) by adding at the end the following new subclause:

''(IV) by a section 1244 interest (as defined in section 1244(c)(1)).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

SEC. 103. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended by striking ''other than a corporation''.

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1202 is amended by adding at the end the following new paragraph:

''(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock shall not be treated as qualified small business stock if such stock was at any time held by any member of the parent-subsidiary controlled group (as defined in subsection (d)(3)) which includes the qualified small business.''

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Section 57(a) is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Section 53(d)(1)(B)(ii)(II) is amended by striking '', (5), and (7)'' and inserting ''and (5)''.

(c) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—

(1) Section 1202(d)(1) is amended by striking ''$50,000,000'' each place it appears and inserting ''$100,000,000''.

(2) Section 1202(d) is amended by adding at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT OF ASSET LIMITATION.—In the case of stock issued in any calendar year after 1997, the $100,000,000 amount contained in 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 the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000,000, such amount shall be rounded to the next lower multiple of $1,000,000.''

(d) PER-ISSUER LIMITATION.—Section 1202(b)(1)(A) is amended by striking ''$10,000,000'' and inserting ''$20,000,000''.

(e) OTHER MODIFICATIONS.—

(1) WORKING CAPITAL LIMITATION.—Section 1202(e)(6) is amended by striking ''2 years'' each place it appears and inserting ''5 years''.

(2) REDEMPTION RULES.—Section 1203(c)(3) is amended by adding at the end the following new subparagraph:

''(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitation of this section.''

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by subsection (b), (d), and (e) shall apply to stock issued after August 10, 1993.

SEC. 104. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

''SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

''(a) EXCLUSION.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000 ($500,000 in the case of a joint return where both spouses meet the use requirement of subsection (a)).

''(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE EVERY 2 YEARS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer or his spouse to which subsection (a) applied.

''(B) PREMARRIAGE SALES BY SPOUSE NOT TAKEN INTO ACCOUNT.—If, but for this subparagraph, subsection (a) would not apply to a sale or exchange by a married individual by reason of a sale or exchange by such individual's spouse before their marriage—

''(i) subparagraph (A) shall be applied without regard to the sale or exchange by such individual's spouse, but

''(ii) the amount of gain excluded from gross income under subsection (a) with respect to the sale or exchange by such individual shall not exceed $250,000.

''(C) PRE-1997 SALES NOT TAKEN INTO ACCOUNT.—Subparagraph (A) shall be applied without regard to any sale or exchange before January 1, 1997.

''(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET CERTAIN REQUIREMENTS.—

''(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(2) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale of exchange shall not exceed—

''(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

''(B) the shorter of—

''(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

''(ii) the period after the date of the most recent prior sale or exchange by the taxpayer or his spouse to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

''(2) SALES AND EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any sale or exchange if—

''(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

''(i) a failure to meet the ownership and use requirements of subsection (a), or

''(ii) subsection (b)(2), and

''(B) such sale or exchange is by reason of a change in place of employment, health, or other unforeseen circumstances.

''(d) SPECIAL RULES.—

''(1) JOINT RETURNS.—For purposes of this section, if a husband and wife make a joint return for the taxable year of the sale or exchange of property, subsection (a) shall, subject to the provisions of subsection (b), apply if either spouse meets the ownership and use requirements of subsection (a) with respect to such property.

''(2) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse held such property before death.

''(3) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

''(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

''(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

''(4) INVOLUNTARY CONVERSIONS.—

''(A) IN GENERAL.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

''(B) APPLICATION OF SECTION 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

''(C) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

''(5) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—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, 1996, in respect of such property.

''(6) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

''(A) becomes physically or mentally incapable of self-care, and

''(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

''(7) DETERMINATION OF MARITAL STATUS.—In the case of any sale or exchange, for purposes of this section—

''(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

''(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

''(e) DENIAL OF EXCLUSION FOR EXPATRIATES.—This section shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) applies to such individual.

''(f) ELECTION TO HAVE SECTION NOT APPLY.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

''(g) RESIDENCES ACQUIRED IN ROLLOVERS UNDER SECTION 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this sentence) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used.''

(b) REPEAL OF NONRECOGNITION OF GAIN ON ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking ''section 1034'' and inserting ''section 121'': sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(h)(3), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking ''(as defined in section 1034(h)(3))'' and by adding at the end the following new sentence: ''For purposes of the preceding sentence, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.''

(3) Subparagraph (A) of 143(m)(6) is amended by inserting ''(as in effect on the day before the date of the enactment of the Targeted Investment Incentive and Economic Growth Act of 1997)'' after ''1034(e)''.

(4) Subsection (e) of section 216 is amended by striking ''such exchange qualifies for nonrecognition of gain under section 1034(f)'' and inserting ''such dwelling unit is used as his principal residence (within the meaning of section 121)''.

(5) Section 512(a)(3)(D) is amended by inserting ''(as in effect on the day before the date of the enactment of the Targeted Investment Incentive and Economic Growth Act of 1997)'' after ''1034''.

(6) Paragraph (7) of section 1016(a) is amended by inserting ''(as in effect on the day before the date of the enactment of the Targeted Investment Incentive and Economic Growth Act of 1997)'' after ''1034'' and by inserting ''(as so in effect)'' after ''1034(e)''.

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

''(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121.''

(8) Subsection (e) of section 1038 is amended to read as follows:

''(e) PRINCIPAL RESIDENCES.—If—

''(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence); and

''(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property.''

(9) Paragraph (7) of section 1223 is amended by inserting ''(as in effect on the day before the date of the enactment of the Targeted Investment Incentive and Economic Growth Act of 1997)'' after ''1034''.

(10) Paragraph (7) of section 1250(d) is amended to read as follows:

''(7) DISPOSITION OF PRINCIPAL RESIDENCE.—Subsection (a) shall not apply to a disposition of property to the extent used by the taxpayer as his principal residence (within the meaning of section 121, relating to gain on sale of principal residence).''

(11) Subsection (c) of section 6012 is amended by striking ''(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)'' and inserting ''(relating to gain from sale of principal residence)''.

(12) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(13) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(14) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

''Sec. 121. Exclusion of gain from sale of principal residence.''

(15) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by striking the item relating to section 1034.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

(2) BINDING CONTRACTS, ETC.—At the election of the taxpayer, the amendments made by this section shall not apply to a sale or exchange after December 31, 1996, if—

(A) such sale or exchange is pursuant to a contract which was binding on the date of the enactment of this Act, or

(B) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date.

This paragraph shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) of the Internal Revenue Code of 1986 applies to such individual.

TITLE II—RETIREMENT SAVINGS

SEC. 201. INCREASE IN DEDUCTION FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Section 219(b)(1)(A) is amended by striking ''$2,000'' and inserting ''$2,500''.

(b) CONFORMING AMENDMENTS.—Subsections (a)(1), (b), and (j) of section 408 are each amended by striking ''$2,000'' each place it appears and inserting ''$2,500''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 202. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

''(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

''(b) ASSET ROLLOVER ACCOUNT.—

''(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

''(c) CONTRIBUTION RULES.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

''(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

''(A) $400,000 ($200,000 in the case of a separate return by a married individual), reduced by

''(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

''(3) ANNUAL CONTRIBUTION LIMITATIONS.—

''(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

''(i) the qualified net farm gain for the taxable year, or

''(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

''(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

''(4) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

''(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

''(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

''(A) the net capital gain of the taxpayer for the taxable year, or

''(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

''(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

''(3) QUALIFIED FARMER.—

''(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

''(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

''(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

''(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

''(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

''(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

''(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

''(1) IN GENERAL.—Any individual who—

''(A) makes a contribution to any asset rollover account for any taxable year, or

''(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

''(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

''(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).''

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.''

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

''(e) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.''

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by inserting ''an asset rollover account (within the meaning of section 1034A),'' after the comma at the end.

(B) The heading for section 4973 is amended by inserting ''**ASSET ROLLOVER ACCOUNTS**,'' after ''**CONTRACTS**''.

(C) The table of sections for chapter 43 is amended by inserting ''asset rollover accounts,'' after ''contracts'' in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Section 408(a)(1) (defining individual retirement account) is amended by inserting ''or a qualified contribution under section 1034A,'' before ''no contribution''.

(2) Section 408(d)(5)(A) is amended by inserting ''or qualified contributions under section 1034A'' after ''rollover contributions''.

(3)(A) Section 6693(b)(1)(A) is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(B) Section 6693(b)(2) is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

''Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

TITLE III—PERFORMANCE STOCK OPTIONS

SEC. 301. PERFORMANCE STOCK OPTIONS.

(a) IN GENERAL.—Part II of subchapter D of chapter 1 (relating to certain stock options) is amended by redesignating section 424 as section 425 and by inserting after section 423 the following new section:

"SEC. 424. PERFORMANCE STOCK OPTIONS.

''(a) IN GENERAL.—Section 421(a) shall apply with respect to the transfer of a share of stock to any person pursuant to the exercise of a performance stock option if no disposition of such share is made by such person within 1 year after the transfer of such share to such person.

''(b) PERFORMANCE STOCK OPTION.—For purposes of this part—

''(1) IN GENERAL.—The term 'performance stock option' means an option to purchase stock of any corporation described in paragraph (4) which is granted to any person—

''(A) in connection with the performance of services for an entity described in paragraph (4), and

''(B) upon the attainment of performance goals established by the entity.

''(2) ADDITIONAL REQUIREMENTS.—An option shall not be treated as a performance stock option unless the following requirements are met:

''(A) NONDISCRIMINATION.—Either—

''(i) the option is granted to an employee who, at the time of the grant, is not a highly compensated employee, or

''(ii) immediately after the grant of the option, employees who are not highly compensated employees hold performance share options which permit the acquisition of at least 50 percent of all shares which may be acquired pursuant to all performance stock options outstanding (whether or not exercisable) as of such time.

For purposes of clause (ii), only that portion of the options held by persons other than nonhighly compensated employees which results in the requirements of clause (ii) not being met shall be treated as options which are not performance stock options, and such portion shall be allocated among options held by such persons in such manner as the Secretary may prescribe.

''(B) SPECIFIC NUMBER OF OPTIONS.—The option is granted pursuant to a plan that includes either—

''(i) the aggregate number of shares that may be issued under options granted under the plan, or

''(ii) a method by which the aggregate number of shares that may be issued under options granted under the plan can be determined (without regard to whether such aggregate number may change under such method),

and which is approved by the stockholders of the granting corporation within 12 months before or after the date such plan is adopted.

''(C) TIME WHEN OPTION GRANTED.—The option is granted within 10 years after the date the plan described in subparagraph (B) is adopted, or the date such plan is approved by the stockholders, whichever is earlier.

''(D) TIME FOR EXERCISING OPTION.—The option by its terms is not exercisable after the expiration of 10 years from the date such option is granted.

''(E) OPTION PRICE.—Except as provided in paragraph (6) of subsection (c), the option price is not less than the fair market value of the stock at the time the option is granted.

''(F) TRANSFERABILITY.—The option by its terms is not transferable by the person holding the option, other than—

''(i) in the case of an individual, by will or the laws of descent and distribution, or pursuant to a qualified domestic relations order (as defined in subsection (p) of section 414), and

''(ii) in the case of any other person, by any transaction in which gain or loss is not recognized in whole or in part.

''(3) ELECTION NOT TO TREAT OPTION AS PERFORMANCE STOCK OPTION.—An option shall not be treated as a performance stock option if—

''(A) as of the time the option is granted the terms of such option provide that it will not be treated as a performance stock option, or

''(B) as of the time such option is exercised the grantor and holder agree that such option will not be treated as a performance stock option.

''(4) ENTITIES TO WHICH SECTION APPLIES.—This section shall apply to an option granted to a person who performs services for—

''(A) the corporation issuing the option, or its parent or subsidiary corporation,

''(B) a partnership in which the corporation issuing the option holds (at the time of the grant) a capital or profits interest representing at least 20 percent of the total capital or profits interest of the partnership, or

''(C) a corporation or a parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which section 425(a) applies.

''(5) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q).

''(c) SPECIAL RULES.—

''(1) GOOD FAITH EFFORTS TO VALUE STOCK.—If a share of stock is acquired pursuant to the exercise by any person of an option which would fail to qualify as a performance stock option under subsection (b) because there was a failure in an attempt, made in good faith, to meet the requirement of subparagraph (E) of subsection (b)(2), the requirement of subparagraph (E) of subsection (b)(2) shall be considered to have been met.

''(2) PERMISSIBLE PROVISIONS.—An option that meets the requirements of subsection (b) shall be treated as a performance stock option even if—

''(A) the option holder may pay for the stock with stock of the corporation granting the option,

''(B) the option holder has the right to receive property at the time of the exercise of the option,

''(C) the right to exercise all or any portion of a performance stock option may be subject to any condition, contingency or other criteria (including, without limitation, the continued performance of services, achievement of performance objectives, or the occurrence of any event) which are determined in accordance with the provisions of the plan or the terms of such option, or

''(D) the option is subject to any condition not inconsistent with the provisions of subsection (b).

''(3) FAIR MARKET VALUE.—For purposes of this section, the fair market value of stock shall be determined without regard to any restriction other than a restriction that, by its terms, will never lapse.

''(4) DEFINITION OF PARENT AND SUBSIDIARY CORPORATIONS.—For purposes of this section, the terms 'parent corporation' and 'subsidiary corporation' have the meanings given such terms by subsections (e) and (f) of section 425 except that such subsections shall be applied by substituting '20 percent' for '50 percent' each place it appears.

''(5) PERFORMANCE CRITERIA.—In the case of a performance stock option that provides that its exercise is subject to any conditions or criteria described in subparagraph (C) of paragraph (2), the date or time the option is granted with respect to each share that may be acquired shall be the date or time the original performance share option is granted and subject to the provisions of section 425(h), no portion of the option shall be treated as granted at any other time.

''(6) CONVERSION OF OPTIONS.—If—

''(A) there is a transfer of an incentive stock option in exchange for a performance stock option, and

''(B) the number of shares that may be acquired pursuant to such performance stock option and the transferred incentive stock option are the same,

then the option acquired shall qualify as a performance stock option if the option price pursuant to the performance share option is no less than the option price under the transferred incentive stock option.''

(b) CONFORMING AMENDMENTS.—

(1) Section 421(a) is amended by striking ''or 423(a)'' and inserting '', 423(a), or 424(a)''.

(2) Section 421(b) is amended—

(A) by striking ''or 423(a)'' and inserting '', 423(a), or 424(a)'', and

(B) by striking ''or 423(a)(1)'' and inserting ''423(a)(1), or 424(a)''.

(3) Section 421(c)(1)(A) is amended by inserting ''and the holding period requirement of section 424(a)'' after ''423(a)''.

(4)(A) Sections 421(a)(2), 422(a)(2), and 423(a)(2) are each amended by striking ''424(a)'' and inserting ''425(a)''.

(B) Clause (ii) of section 402(e)(4)(E) is amended by striking ''424'' and inserting ''425''.

(5) Section 423(b)(3) is amended by striking ''424(d)'' and inserting ''425(d)''.

(6) Section 425(a), as redesignated by subsection (a), is amended by striking ''424(a)'' and inserting ''425(a)''.

(7) Section 425(c)(3)(A)(ii), as redesignated by subsection (a), is amended by striking ''or 423(a)(1)'' and inserting '', 423(a)(1), or 424(a)''.

(8) Section 425(g), as redesignated by subsection (a), is amended by striking ''and 423(a)(2)'' and inserting '', 423(a)(2) and 424(b)(4) (as modified by section 424(c)(4))''.

(9) Section 425(j), as redesignated by subsection (a) (relating to cross-references), is amended by inserting ''performance stock option'' after ''employee stock purchase plans,''.

(10) Section 1042(c)(1)(B)(ii) is amended by striking ''or 423'' and inserting ''423, or 424''.

(11)(A) Section 6039(a)(1) is amended by inserting ''or performance stock option'' after ''incentive stock option''.

(B) Section 6039(b)(1) is amended by inserting '', performance share option,'' after ''incentive stock option''.

(C) Section 6039(c) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'' and by adding at the end the following new paragraph:

''(3) the term 'performance share option', see 424(b).''

(12) The table of sections for part II of subchapter D of chapter 1 is amended by striking the item relating to section 424 and inserting the following new items:

''Sec. 424. Performance stock options.

''Sec. 425. Definitions and special rules.''

SEC. 302. TAX TREATMENT OF GAIN ON PERFORMANCE SHARE OPTIONS.

(a) EXCLUSION.—

(1) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end the following new section:

''SEC. 1203. 50-PERCENT EXCLUSION FOR GAIN FROM STOCK ACQUIRED THROUGH PERFORMANCE STOCK OPTIONS.

''(a) GENERAL RULE.—Gross income shall not include 50 percent of the gain from the disposition of any stock acquired pursuant to the exercise of a performance stock option if such disposition occurs more than 2 years after the date on which such option was exercised with respect to such stock.

''(b) DEFINITIONS AND RULES.—For purposes of this section—

''(1) PERFORMANCE STOCK OPTION.—The term 'performance stock option' has the meaning given such term by section 424(b).

''(2) CERTAIN ACQUISITIONS DISREGARDED.—If stock described in subsection (a) is disposed of and the basis of the person acquiring the stock is determined by reference to the basis of the stock in the hands of the person who acquired it through exercise of the performance stock option, such person shall be treated as acquiring such stock pursuant to such option on the date such stock was acquired pursuant to the exercise of such option.

''(3) EXERCISE BY ESTATE.—If a performance stock option is exercised after the death of an individual holder by the estate of the decedent, or by a person who acquired the right to exercise such option by bequest or inheritance or by reason of the death of the decedent, the 2-year holding requirement of subsection (a) shall not apply to the disposition by such estate or person.''

(2) CONFORMING AMENDMENTS.—

(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

''(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

''(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets, and

''(B) the exclusion provided by section 1202 shall not be allowed.''

(B) Paragraph (4) of section 642(c) is amended to read as follows:

''(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202 or 1203. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).''

(C) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: ''The exclusion

under section 1202 or 1203 shall not be taken into account.''

(D) Paragraph (4) of section 691(c) is amended by striking ''1202, and 1211'' and inserting ''1202, 1203, and 1211''.

(E) The second sentence of paragraph (2) of section 871(a) is amended by inserting ''such gains and losses shall be determined without regard to sections 1202 and 1203 and'' after ''except that''.

(F) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1202 the following new item:

''Sec. 1203. 50-percent exclusion for gain from stock acquired through performance stock options.''

(b) TREATMENT FOR WAGE WITHHOLDING AND EMPLOYMENT TAXES.—

(1) FICA TAXES.—Section 3121(a) (defining wages) 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 adding after paragraph (21) the following new paragraph:

''(22) any gain from the exercise of a performance stock option (as defined in section 424(b)) or from the disposition of stock acquired pursuant to the exercise of such a performance stock option.''

(2) FUTA TAXES.—Section 3306(b) (defining wages) is amended by striking ''or'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', or'', and by adding after paragraph (17) the following new paragraph:

''(18) any gain described in section 3121(a)(22).''

(3) WAGE WITHHOLDING.—

(A) Section 3401(a) (defining wages) 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 adding at the end the following new paragraph:

''(22) any gain from the exercise of a performance stock option (as defined in section 424(b)) or from the disposition of stock acquired pursuant to such a performance stock option.''

(B) Section 421(b) (relating to effect of disqualifying disposition) is amended by adding at the end the following new sentence: ''A deduction to the employer corporation in the case of a transfer pursuant to an option described in section 422, 423, or 424 shall not be disallowed by reason of a failure to withhold tax under chapter 24 with respect to gain on stock acquired in the transfer.''

SEC. 303. EFFECTIVE DATE.

The amendments made by this title shall apply to options granted after the date of the enactment of this Act.

TITLE IV—EMPLOYER-PROVIDED TRAINING

SEC. 401. EXTENSION OF EXCLUSION FOR EDUCATIONAL ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 127 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 402. STUDY OF NONDISCRIMINATION RULES APPLICABLE TO EDUCATIONAL ASSISTANCE PROGRAMS.

(a) STUDY.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall conduct a study which examines—

(1) the pattern in which taxpayers providing job-related training and education assistance programs under section 127 of the Internal Revenue Code of 1986 extend such benefits to highly compensated employees and nonhighly compensated employees;

(2) the merits and administrative feasibility of applying nondiscrimination rules to job-related training and educational assistance programs under section 127 of the Internal Revenue Code of 1986 which are similar to the nondiscrimination rules applicable to employer-provided pension plans; and

(3) the merits and administrative feasibility of conditioning the exclusion for job-related training and section 127 assistance on an employee remaining with the employer for at least 1 year after receiving the training or educational assistance.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Labor shall report to the Congress the results of the study conducted under subsection (a), including any recommendations for legislation as the Secretary determines appropriate.

TITLE V—ESTATE TAX RELIEF

SEC. 501. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

''SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

''(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

''(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

''(2) $900,000, reduced by the amount of any exclusion allowed under this section with respect to the estate of a previously deceased spouse of the decedent.

''(b) ESTATES TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—This section shall apply to an estate if—

''(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

''(B) the sum of—

''(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

''(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

''(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

''(i) such interests were owned by the decedent or a member of the decedent's family, and

''(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

''(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

''(A) are included in determining the value of the gross estate (without regard to this section), and

''(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

''(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

''(A) the sum of—

''(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

''(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

''(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

''(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

''(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

''(2) increased by the excess of—

''(A) the sum of—

''(i) the amount of gifts determined under subsection (b)(3), plus

''(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

''(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

''(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

''(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

''(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

''(2) the sum of—

''(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

''(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

''(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

''(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

''(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

''(B) an interest in an entity carrying on a trade or business, if—

''(i) at least—

''(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

''(II) 70 percent of such entity is so owned by members of 2 families, or

''(III) 90 percent of such entity is so owned by members of 3 families, and

''(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

''(2) LIMITATION.—Such term shall not include—

''(A) any interest in a trade or business the principal place of business of which is not located in the United States,

''(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

''(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

''(D) that portion of an interest in a trade or business that is attributable to—

''(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

''(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

''(3) RULES REGARDING OWNERSHIP.—

''(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

''(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

''(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

''(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

''(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

''(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

''(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

''(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

''(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

''(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

''(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

''(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

''(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

''(2) ADDITIONAL ESTATE TAX.—

''(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

''(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

''(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

''(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

''If the event described in paragraph (1) occurs in the following year of material participation:	The applicable percentage is:
1 through 6	100
7	80
8	60
9	40
10	20.

''(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

''(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

''(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

''(A) which is organized under, and governed by, the laws of the United States or a State, and

''(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

''(1) QUALIFIED HEIR.—The term 'qualified heir'—

''(A) has the meaning given to such term by section 2032A(e)(1), and

''(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

''(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

''(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

''(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

''(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

''(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

''(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

''(E) Section 2032A(c)(4) (relating to due date).

''(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

''(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

''(H) Section 2032A(e)(10) (relating to community property).

''(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

''(J) Section 2032A(f) (relating to statute of limitations).

''(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

''(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

''(M) Section 6324B (relating to special lien for additional estate tax).''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

''Sec. 2033A. Family-owned business exclusion.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 502. PORTION OF ESTATE TAX SUBJECT TO 4-PERCENT INTEREST RATE INCREASED TO $1,600,000.

(a) IN GENERAL.—Subparagraph (B) of section 6601(j)(2) (defining 4-percent portion) is amended by striking ''$345,800'' and inserting ''$600,800''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 503. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

''(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.

TITLE VI—TRANSPORTATION INVESTMENT

SEC. 601. FINDINGS.

Congress finds that—

(1) decaying roads and bridges are clogging the economic lifelines and hampering growth of communities around the country, costing nearly $40,000,000,000 in annual losses from traffic congestion alone;

(2) with ''just-in-time'' manufacturing a critical aspect of our economic competitiveness, a modern, efficient transportation system is more vital now than ever;

(3) user fee revenues continue to flow into our transportation trust funds for their intended purpose of infrastructure investment;

(4) Federal budget constraints have prevented States from fully utilizing all amounts of the transportation trust fund revenues made available to them;

(5) at the same time, recent Federal initiatives have equipped States with new infrastructure financing tools that help attract private investment, stimulate the Nation's economy, and create jobs; and

(6) enabling States to use a portion of their unobligated balances of apportioned Highway Trust Fund revenues via these new financing tools will maximize the benefits of vitally needed infrastructure investments.

SEC. 602. PROGRAM STRUCTURE.

(a) IN GENERAL.—The Secretary of Transportation (referred to in this title as the ''Secretary'') shall make available to a State a portion of the State's unobligated balance in accordance with section 603.

(b) QUALIFYING PROJECT.—Federal funds made available under this title may be used only to provide assistance with respect to a project eligible for assistance under section 133(b) of title 23, United States Code.

(c) PROJECT ADMINISTRATION.—A project receiving assistance under this title shall be carried out in accordance with title 23, United States Code.

SEC. 603. FUNDING.

(a) UNOBLIGATED BALANCES.—

(1) IN GENERAL.—For each fiscal year, upon the request of a State, the Secretary shall make available to the State to carry out projects eligible for assistance under this title an aggregate amount not to exceed 10 percent, as of the last day of the preceding fiscal year, of the funds that were apportioned to the State under sections 104(b)(1), 104(b)(3), 104(b)(5), 144, and 160 of title 23, United States Code, and are not obligated.

(2) URBANIZED AREAS OVER 200,000.—Funds that were apportioned to a State under section 104(b)(3) or 160 of title 23, United States Code, and attributed to an urbanized area of the State with an urbanized area population of over 200,000 under section 133(d)(3) of that title may be made available by the Secretary under paragraph (1) only if the metropolitan planning organization designated for the area concurs, in writing, with that use.

(b) USE OF FUNDS.—

(1) STATE INFRASTRUCTURE BANKS.—

(A) IN GENERAL.—A State shall contribute the amounts made available to the State under subsection (a)(1) to the State infrastructure bank established by the State in accordance with section 350 of the National Highway System Designation Act of 1995 (23 U.S.C. 101 note; 109 Stat. 618). Federal funds contributed to the bank under this subparagraph shall constitute a capitalization grant for the infrastructure bank.

(B) DISBURSEMENTS.—The Secretary shall ensure that the disbursements of the Federal funds referred to in subparagraph (A) to the infrastructure bank shall be at a rate consistent with historic rates for the Federal-aid highway program.

(2) GRANTS.—In lieu of contributing the funds to an infrastructure bank, and upon approval by the Secretary, a State may obligate amounts made available to the State under subsection (a)(1) for a project eligible for assistance under section 602(b).

(3) NO OBLIGATION LIMITATION.—No limitation shall apply to obligations of amounts made available under subsection (a)(1).

By Mr. MOYNIHAN:

S. 21. A bill to establish a medical education trust fund, and for other purposes; to the Committee on Finance.

THE MEDICAL EDUCATION TRUST FUND ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise to reintroduce legislation that would establish a medical education trust fund to support America's 142 accredited medical schools and 1,250 teaching hospitals. These institutions are national treasures; they are the very best in the world. Yet today they find themselves in a precarious financial situation as market forces reshape the health care delivery system in the United States. Explicit and dedicated funding for these institutions, which this legislation will provide, will ensure that the United States continues to lead the world in the quality of its health care system.

This legislation requires that the public sector, through the Medicare and Medicaid programs, and the private sector, through an assessment on health insurance premiums, contribute broad-based and fair financial support.

BRIEF HISTORY

My particular interest in this subject began in 1994, when the Finance Committee took up the President's Health Security Act. I was chairman of the committee at the time. In January of that year, I asked Dr. Paul Marks, M.D., president of Memorial Sloan-Kettering Cancer Center in New York City, if he would arrange a seminar for me on health care issues. He agreed, and gathered a number of medical school deans together one morning in New York.

Early on in the meeting, one of the seminarians remarked that the University of Minnesota might have to close its medical school. In an instant I realized I had heard something new. Minnesota is a place where they open medical schools, not close them. How, then, could this be? The answer was that Minnesota, being Minnesota, was a leading State in the growth of competitive health care markets, in which competing managed care organizations try to deliver services at lower costs. In this environment, HMO's and the like do not send patients to teaching hospitals, absent which you cannot have a medical school.

We are in the midst of a great era of discovery in medical science. It is certainly not a time to close medical schools. This great era of medical discovery is occurring right here in the United States, not in Europe like past ages of scientific discovery. And it is centered in New York City. This heroic age of medical science started in the late 1930's. Before then, the average patient was probably as well off, perhaps better, out of a hospital as in one. Progress from that point sixty years ago has been remarkable. The last few decades have brought us images of the inside of the human body based on the magnetic resonance of bodily tissues; laser surgery; micro surgery for reattaching limbs; and organ transplantation, among other wonders. Physicians are now working on a gene therapy that might eventually replace bypass surgery. I can hardly imagine what might be next.

After months of hearings and debate on the President's Health Security Act, I became convinced that special provisions would have to be made for medical schools, teaching hospitals, and medical research if we were not to see this great moment in medical science suddenly constrained. To that end, when the Committee on Finance voted 12 to 8 on July 2, 1994 to report the Health Security Act, it included a Graduate Medical Education and Academic Health Centers Trust Fund. The trust fund provided an 80-percent increase in Federal funding for academic medicine; as importantly, it represented stable, long-term funding. While nothing came of the effort to enact universal health care coverage, the medical education trust fund enjoyed widespread support. An amendment by Senator Malcolm Wallop to kill the trust fund by striking the source of its revenue—a 1.75-percent assessment on health insurance premiums—failed on a 7 to 13 vote in the Finance Committee.

I continued to press the issue in the first session of the 104th Congress. On September 29, 1995, during Finance Committee consideration of budget reconciliation legislation, I offered an amendment to establish a similar trust fund. With a new majority in control and the committee in the midst of considering a highly partisan budget reconciliation bill, my amendment failed on a tie vote, 10 to 10. Notably, however, the House version of the reconciliation bill did include a graduate medical education trust fund. That provision ultimately passed both houses as part of the conference agreement, which was subsequently vetoed by President Clinton. The budget resolution for fiscal year 1997 as passed by Congress also appeared to assume that a similar trust fund was to be included in the Medicare reconciliation bill—a bill which never materialized.

The chairman of the House Ways and Means Committee, Representative BILL ARCHER, was largely responsible for the inclusion of trust fund provisions in the Balanced Budget Act of 1995 and the budget resolution for fiscal year 1997. He and I share a strong commitment to ensuring the continued success of our system of medical education. Indeed, Chairman ARCHER and I were both honored last year to receive the American Association of Medical Colleges' Public Service Excellence Award.

That is the history of this effort, briefly stated.

NEED FOR LEGISLATION

Medical education is one of America's most precious public resources. Within our increasingly competitive health care system, it is rapidly becoming a public good—that is, a good from which everyone benefits, but for which no one is willing to pay. Therefore, it would be explicitly financed with contributions from all sectors of the health care system, not just the Medicare Program as is the case today. The fiscal pressures of a competitive health market are increasingly closing off traditional implicit revenue sources

(such as additional payments from private payers) that have supported medical schools, graduate medical education, and research until now. In its June, 1995 Report to Congress, the Prospective Payment Assessment Commission [ProPAC], created to advise Congress on Medicare Hospital Insurance [Part A] payment, summarized the situation of teaching hospitals as follows:

As competition in the health care system intensifies, the additional costs borne by teaching hospitals will place them at a disadvantage relative to other facilities. The role, scale, function, and number of these institutions increasingly will be challenged. . . . Accelerating price competition in the private sector . . . is reducing the ability of teaching hospitals to obtain the higher patient care rates from other payers that traditionally have contributed to financing the costs associated with graduate medical education.

ProPAC's June, 1996 Report to Congress confirmed that ''major teaching hospitals have the dual problems of higher overall losses from uncompensated care and less above-cost revenue from private insurers.''

The State of New York provides a good example of what is happening as health care markets become more competitive. Effective at the end of the 1996 calendar year, New York repealed a State law that set hospital rates. Hospitals must now negotiate their fees with each and every health plan in the State. Where teaching hospitals were once guaranteed a payment that recognized, to some degree, its higher costs of providing services, the private sector is free to squeeze down payments to hospitals with no such recognition. While the State of New York operates funding pools that provide partial support for graduate medical education and uncompensated care, it is largely up to the teaching hospitals to try to win higher rates than other hospitals when negotiating contracts with health plans. Some may succeed in doing so, but most will probably not. New York's State law was unique, but the same process of negotiation between hospitals and private health plans takes place across the country. Who, in this context, will pay for the higher costs of operating teaching hospitals?

It is obvious that teaching hospitals can no longer rely on higher payments from private payers to do so. Nor should they. The establishment of this trust fund, which explicitly reimburses teaching hospitals for the costs of graduate medical education, will ensure that teaching hospitals can pursue their vitally important patient care, training, and research missions in the face of an increasingly competitive health system.

Medical schools also face an uncertain future. There are many policy issues that need to be examined regarding the role of medical schools in our health system, but two threats faced by medical schools require immediate attention. This legislation addresses both. First, many medical schools are immediately threatened by the dire financial condition of their affiliated teaching hospitals. Medical schools rely on teaching hospitals to provide a place for their faculty to practice and perform research, a place to send third and fourth-year medical school students for training, and for some direct revenues. By improving the financial condition of teaching hospitals, this legislation significantly improves the outlook for medical schools.

The second immediate threat faced by medical schools stems from their reliance on a portion of the clinical practice revenue generated by their faculties to support their operations. As competition within the health system intensifies and managed care proliferates, these revenues are shrinking. This legislation provides payments to medical schools from the trust fund that are designed to partially offset this loss of revenue.

None of the foregoing is meant to suggest that the new competitive forces reshaping health care have brought only negative results. To the contrary, the onset of competition has had many beneficial effects, the dramatic curtailing of growth in health insurance premiums being the most obvious. But as Monsignor Charles J. Fahey of Fordham warned in testimony before the Finance Committee in 1994, we must be wary of the ''commodification of health care,'' by which he meant that health care is not just another commodity. We can rely on competition to hold down costs in much of the health system, but we must not allow it to bring a premature end to this great age of medical discovery, an age made possible by this country's exceptionally well-trained health professionals and superior medical schools and teaching hospitals. This legislation complements a competitive health market by providing tax-supported funding for the public services provided by teaching hospitals and medical schools.

DESCRIPTION OF LEGISLATION

Accordingly, the medical education trust fund established in the legislation I have just reintroduced would receive funding from three sources broadly representing the entire health care system: a 1.5 percent tax on health insurance premiums—the private sector's contribution—Medicare and Medicaid—the latter two sources comprising the public sector's contribution. The relative contribution from each of these sources will be in rough proportion to the medical education costs attributable to their respective covered populations.

Over the 5 years following enactment, the medical education trust fund provides average annual payments of about $17 billion. The tax on health insurance premium—including self-insured health plans—raises approximately $4 billion per year for the trust fund. Federal health programs contribute about $13 billion per year to the trust fund: $9 billion in transfers of Medicare graduate medical education payments and $4 billion in federal Medicaid spending.

This legislation is only a first step. It establishes the principle that, as a public good, medical education should be supported by dedicated, long-term Federal funding. To ensure that the United States continues to lead the world in the quality of its medical education and its health system as a whole, the legislation would also create a Medical Education Advisory Commission to conduct a thorough study and make recommendations, including the potential use of demonstration projects, regarding the following: alternative and additional sources of medical education financing; alternative methodologies for financing medical education; policies designed to maintain superior research and educational capacities in an increasingly competitive health system; the appropriate role of medical schools in graduate medical education; and policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals.

Mr. President, the services provided by this Nation's teaching hospitals and medical schools—ground breaking research, highly skilled medical care, and the training of tomorrow's physicians—are vitally important and must be protected in this time of intense economic competition in the health system.

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

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

S. 21

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 ''Medical Education Trust Fund Act of 1997''.

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

SEC. 2. MEDICAL EDUCATION TRUST FUND.

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XX the following new title:

''TITLE XXI—MEDICAL EDUCATION TRUST FUND

''TABLE OF CONTENTS OF TITLE

''SEC. 2101. ESTABLISHMENT OF TRUST FUND.

''(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Medical Education Trust Fund (in this title referred to as the 'Trust Fund'), consisting of the following accounts:

''(1) The Medical School Account.

''(2) The Medicare Teaching Hospital Indirect Account.

''(3) The Medicare Teaching Hospital Direct Account.

''(4) The Non-Medicare Teaching Hospital Indirect Account.

''(5) The Non-Medicare Teaching Hospital Direct Account.

Each such account shall consist of such amounts as are allocated and transferred to such account under this section, sections 1876(a)(7), 1886(j) and 1931, and section 4503 of the Internal Revenue Code of 1986. Amounts in the accounts of the Trust Fund shall remain available until expended.

''(b) EXPENDITURES FROM TRUST FUND.—Amounts in the accounts of the Trust Fund are available to the Secretary for making payments under sections 2102 and 2103.

''(c) INVESTMENT.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest amounts in the accounts of the Trust Fund which the Secretary determines are not required to meet current withdrawals from the Trust 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.—The Secretary of the Treasury may sell at market price any obligation acquired under paragraph (1).

''(3) AVAILABILITY OF INCOME.—Any interest derived from obligations held in each such account, and proceeds from any sale or redemption of such obligations, are hereby appropriated to such account.

''(d) MONETARY GIFTS TO TRUST FUND.—There are appropriated to the Trust Fund such amounts as may be unconditionally donated to the Federal Government as gifts to the Trust Fund. Such amounts shall be allocated and transferred to the accounts described in subsection (a) in the same proportion as the amounts in each of the accounts bears to the total amount in all the accounts of the Trust Fund.

''SEC. 2102. PAYMENTS TO MEDICAL SCHOOLS.

''(a) FEDERAL PAYMENTS TO MEDICAL SCHOOLS FOR CERTAIN COSTS.—

''(1) IN GENERAL.—In the case of a medical school that in accordance with paragraph (2) submits to the Secretary an application for fiscal year 1998 or any subsequent fiscal year, the Secretary shall make payments for such year to the medical school for the purpose specified in paragraph (3). The Secretary shall make such payments from the Medical School Account in an amount determined in accordance with subsection (b), and may administer the payments as a contract, grant, or cooperative agreement.

''(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments under such paragraph for a fiscal year is in accordance with this paragraph if—

''(A) the medical school involved submits the application not later than the date specified by the Secretary; and

''(B) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

''(3) PURPOSE OF PAYMENTS.—The purpose of payments under paragraph (1) is to assist medical schools in maintaining and developing quality educational programs in an increasingly competitive health care system.

''(b) AVAILABILITY OF TRUST FUND FOR PAYMENTS; ANNUAL AMOUNT OF PAYMENTS.—

''(1) AVAILABILITY OF TRUST FUND FOR PAYMENTS.—The following amounts shall be available for a fiscal year for making payments under subsection (a) from the amount allocated and transferred to the Medical School Account under sections 1876(a)(7), 1886(j), 1931, 2101(c)(3) and (d), and section 4503 of the Internal Revenue Code of 1986:

''(A) In the case of fiscal year 1998, $200,000,000.

''(B) In the case of fiscal year 1999, $300,000,000.

''(C) In the case of fiscal year 2000, $400,000,000.

''(D) In the case of fiscal year 2001, $500,000,000.

''(E) In the case of fiscal year 2002, $600,000,000.

''(F) In the case of each subsequent fiscal year, the amount specified in this paragraph in the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the general health care inflation factor (as defined in subsection (d)) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this subparagraph in the projected health care inflation factor.

''(2) AMOUNT OF PAYMENTS FOR MEDICAL SCHOOLS.—

''(A) IN GENERAL.—Subject to the annual amount available under paragraph (1) for a fiscal year, the amount of payments required under subsection (a) to be made to a medical school that submits to the Secretary an application for such year in accordance with subsection (a)(2) is an amount equal to an amount determined by the Secretary in accordance with subparagraph (B).

''(B) DEVELOPMENT OF FORMULA.—The Secretary shall develop a formula for allocation of funds to medical schools under this section consistent with the purpose described in subsection (a)(3).

''(c) MEDICAL SCHOOL DEFINED.—For purposes of this section, the term 'medical school' means a school of medicine (as defined in section 799 of the Public Health Service Act) or a school of osteopathic medicine (as defined in such section).

''(d) GENERAL HEALTH CARE INFLATION FACTOR.—The term 'general health care inflation factor' means the consumer price index for medical services as determined by the Bureau of Labor Statistics.

''SEC. 2103. PAYMENTS TO TEACHING HOSPITALS.

''(a) FORMULA PAYMENTS TO ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—In the case of any fiscal year beginning after September 30, 1997, the Secretary shall make payments to each eligible entity that, in accordance with paragraph (2), submits to the Secretary an application for such fiscal year. Such payments shall be made from the Trust Fund, and the total of the payments to the eligible entity for the fiscal year shall equal the sum of the amounts determined under subsections (b), (c), (d), and (e).

''(2) APPLICATION.—For purposes of paragraph (1), an application shall contain such information as may be necessary for the Secretary to make payments under such paragraph to an eligible entity during a fiscal year. An application shall be treated as submitted in accordance with this paragraph if it is submitted not later than the date specified by the Secretary, and is made in such form and manner as the Secretary may require.

''(3) PERIODIC PAYMENTS.—Payments under paragraph (1) to an eligible entity for a fiscal year shall be made periodically, at such intervals and in such amounts as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).

''(4) ADMINISTRATOR OF PROGRAMS.—The Secretary shall carry out responsibility under this title by acting through the Administrator of the Health Care Financing Administration.

''(5) ELIGIBLE ENTITY.—For purposes of this title, the term 'eligible entity', with respect to any fiscal year, means—

''(A) for payment under subsections (b) and (c), an entity which would be eligible to receive payments for such fiscal year under—

''(i) section 1886(d)(5)(B), if such payments had not been terminated for discharges occurring after September 30, 1997;

''(ii) section 1886(h), if such payments had not been terminated for cost reporting periods beginning after September 30, 1997; or

''(iii) both sections; or

''(B) for payment under subsections (d) and (e)—

''(i) an entity which meets the requirement of subparagraph (A); or

''(ii) an entity which the Secretary determines should be considered an eligible entity.

''(b) DETERMINATION OF AMOUNT FROM MEDICARE TEACHING HOSPITAL INDIRECT ACCOUNT.—

''(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Indirect Account under sections 1876(a)(7) and 1886(j)(1), and subsections (c)(3) and (d) of section 2101 for such fiscal year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity in such fiscal year under section 1886(d)(5)(B) if—

''(A) such payments had not been terminated for discharges occurring after September 30, 1997; and

''(B) such payments included payments for individuals enrolled in a plan under section 1876, except that for fiscal years 1998, 1999, and 2000, only the applicable percentage (as defined in section 1876(a)(7)(B)) of such payments shall be taken into account.

''(c) DETERMINATION OF AMOUNT FROM MEDICARE TEACHING HOSPITAL DIRECT ACCOUNT.—

''(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Direct Account under sections 1876(a)(7) and 1886(j)(2), and subsections (c)(3) and (d) of section 2101 for such fiscal year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity in such fiscal year under section 1886(h) if—

''(A) such payments had not been terminated for cost reporting periods beginning after September 30, 1997; and

''(B) such payments included payments for individuals enrolled in a plan under section 1876, except that for fiscal years 1998, 1999, and 2000, only the applicable percentage (as defined in section 1876(a)(7)(B)) of such payments shall be taken into account.

''(d) DETERMINATION OF AMOUNT FROM NON-MEDICARE TEACHING HOSPITAL INDIRECT ACCOUNT.—

''(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account for such fiscal year under section 1931, subsections

(c)(3) and (d) of section 2101, and section 4503 of the Internal Revenue Code of 1986.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year for an eligible entity is equal to the percentage of the total payments which, as determined by the Secretary, would have been made in such fiscal year under section 1886(d)(5)(B) if—

''(A) such payments had not been terminated for discharges occurring after September 30, 1997; and

''(B) non-medicare patients were taken into account in lieu of medicare patients.

''(e) DETERMINATION OF AMOUNT FROM NON-MEDICARE TEACHING HOSPITAL DIRECT ACCOUNT.—

''(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Non-Medicare Teaching Hospital Direct Account for such fiscal year under section 1931, subsections (c)(3) and (d) of section 2101, and section 4503 of the Internal Revenue Code of 1986.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year for an eligible entity is equal to the percentage of the total payments which, as determined by the Secretary, would have been made in such fiscal year under section 1886(h) if—

''(A) such payments had not been terminated for cost reporting periods beginning after September 30, 1997; and

''(B) non-medicare patients were taken into account in lieu of medicare patients.''.

SEC. 3. AMENDMENTS TO MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(5)(B), in the matter preceding clause (i), by striking ''The Secretary shall provide'' and inserting the following: ''For discharges occurring before October 1, 1997, the Secretary shall provide'';

(2) in subsection (h)—

(A) in paragraph (1), in the first sentence, by striking ''the Secretary shall provide'' and inserting ''the Secretary shall, subject to paragraph (6), provide''; and

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

''(6) LIMITATION.—

''(A) IN GENERAL.—The authority to make payments under this subsection shall not apply with respect to—

''(i) cost reporting periods beginning after September 30, 1997; and

''(ii) any portion of a cost reporting period beginning on or before such date which occurs after such date.

''(B) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing any payment under section 1861(v) with respect to graduate medical education.''; and

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

''(j) TRANSFERS TO MEDICAL EDUCATION TRUST FUND.—

''(1) INDIRECT COSTS OF MEDICAL EDUCATION.—

''(A) TRANSFER.—

''(i) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 1998 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under subparagraph (B).

''(ii) ALLOCATION.—Of the amount transferred under clause (i)—

''(I) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to the Medical Education Trust Fund under title XXI (excluding amounts transferred under subsections (c)(3) and (d) of section 2101) for such fiscal year; and

''(II) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account.

''(B) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for each fiscal year involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1997.

''(2) DIRECT COSTS OF MEDICAL EDUCATION.—

''(A) TRANSFER.—

''(i) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1998 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under subparagraph (B).

''(ii) ALLOCATION.—Of the amount transferred under clause (i)—

''(I) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to the Medical Education Trust Fund under title XXI (excluding amounts transferred under subsections (c)(3) and (d) of section 2101) for such fiscal year; and

''(II) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Direct Account.

''(B) DETERMINATION OF AMOUNTS.—For each hospital, the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid under subsection (h) to the hospital during the fiscal year if such payments had not been terminated for cost reporting periods beginning after September 30, 1997.

''(C) ALLOCATION BETWEEN FUNDS.—In providing for a transfer under subparagraph (A) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.''.

(b) MEDICARE HMO'S.—Section 1876(a) of the Social Security Act (42 U.S.C. 1395mm(a)) is amended by inserting after paragraph (6) the following new paragraph:

''(7)(A) In determining the adjusted average per capita cost under paragraph (4) for fiscal years after 1997, the Secretary shall not take into account the applicable percentage of costs under sections 1886(d)(5)(B) (indirect costs of medical education) and 1886(h) (direct graduate medical education costs).

''(B) For purposes of subparagraph (A), the applicable percentage is—

''(i) for fiscal year 1998, 25 percent;

''(ii) for fiscal year 1999, 50 percent;

''(iii) for fiscal year 2000, 75 percent; and

''(iv) for fiscal year 2001 and each subsequent fiscal year, 100 percent.

''(C)(i) There is appropriated and transferred to the Medical Education Trust Fund each fiscal year an amount equal to the aggregate amounts not taken into account under paragraph (4) by reason of subparagraph (A).

''(ii) Of the amounts transferred under clause (i)—

''(I) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to the Medical Education Trust Fund under section 2101 (excluding amounts transferred under subsections (c)(3) and (d) of such section) for such fiscal year; and

''(II) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account under such section and the Medicare Teaching Hospital Direct Account under such section in the same proportion as the amounts attributable to the costs under sections 1886(d)(5)(B) and 1886(h) were of the amounts transferred under clause (i).

''(iii) The Secretary shall make payments under clause (i) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, in the same manner as the Secretary determines under section 1886(j).''.

SEC. 4. AMENDMENTS TO MEDICAID PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1931 as section 1932; and

(2) by inserting after section 1930, the following new section:

''TRANSFER OF FUNDS TO ACCOUNTS

''SEC. 1931. (a) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—For fiscal year 1998 and each subsequent fiscal year, the Secretary shall transfer to the Medical Education Trust Fund an amount equal to the amount determined under subsection (b).

''(2) ALLOCATION.—Of the amount transferred under paragraph (1)—

''(A) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under paragraph (1) bears to the total amounts transferred to the Medical Education Trust Fund under title XXI (excluding amounts transferred under subsections (c)(3) and (d) of section 2101) for such fiscal year; and

''(B) the remainder shall be allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account, in the same proportion as the amounts transferred to each account under section 1886(j) relate to the total amounts transferred under such section for such fiscal year.

''(b) AMOUNT DETERMINED.—

''(1) OUTLAYS FOR ACUTE MEDICAL SERVICES DURING PRECEDING FISCAL YEAR.—Beginning with fiscal year 1998, the Secretary shall determine 5 percent of the total amount of Federal outlays made under this title for acute medical services, as defined in paragraph (2), for the preceding fiscal year.

''(2) ACUTE MEDICAL SERVICES DEFINED.—The term 'acute medical services' means items and services described in section 1905(a) other than the following:

''(A) Nursing facility services (as defined in section 1905(f)).

''(B) Intermediate care facility for the mentally retarded services (as defined in section 1905(d)).

''(C) Personal care services (as described in section 1905(a)(24)).

''(D) Private duty nursing services (as referred to in section 1905(a)(8)).

''(E) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

''(F) Home and community care furnished to functionally disabled elderly individuals under section 1929.

''(G) Community supported living arrangements services under section 1930.

''(H) Case-management services (as described in section 1915(g)(2)).

''(I) Home health care services (as referred to in section 1905(a)(7)), clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in a previous subparagraph.

''(J) Services furnished in an institution for mental diseases (as defined in section 1905(i)).

''(c) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to the Non-Medicare Teaching Hospital Indirect Account, the Non-Medicare Teaching Hospital Direct Account, and the Medical School Account of amounts determined in accordance with subsections (a) and (b).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on and after October 1, 1997.

SEC. 5. ASSESSMENTS ON INSURED AND SELF-INSURED HEALTH PLANS.

(a) GENERAL RULE.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding after chapter 36 the following new chapter:

''CHAPTER 37—HEALTH RELATED ASSESSMENTS

''SEC. 4501. HEALTH INSURANCE AND HEALTH-RELATED ADMINISTRATIVE SERVICES.

''(a) IMPOSITION OF TAX.—There is hereby imposed—

''(1) on each taxable health insurance policy, a tax equal to 1.5 percent of the premiums received under such policy, and

''(2) on each amount received for health-related administrative services, a tax equal to 1.5 percent of the amount so received.

''(b) LIABILITY FOR TAX.—

''(1) HEALTH INSURANCE.—The tax imposed by subsection (a)(1) shall be paid by the issuer of the policy.

''(2) HEALTH-RELATED ADMINISTRATIVE SERVICES.—The tax imposed by subsection (a)(2) shall be paid by the person providing the health-related administrative services.

''(c) TAXABLE HEALTH INSURANCE POLICY.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this section, the term 'taxable health insurance policy' means any insurance policy providing accident or health insurance with respect to individuals residing in the United States.

''(2) EXEMPTION OF CERTAIN POLICIES.—The term 'taxable health insurance policy' does not include any insurance policy if substantially all of the coverage provided under such policy relates to—

''(A) liabilities incurred under workers' compensation laws,

''(B) tort liabilities,

''(C) liabilities relating to ownership or use of property,

''(D) credit insurance, or

''(E) such other similar liabilities as the Secretary may specify by regulations.

''(3) SPECIAL RULE WHERE POLICY PROVIDES OTHER COVERAGE.—In the case of any taxable health insurance policy under which amounts are payable other than for accident or health coverage, in determining the amount of the tax imposed by subsection (a)(1) on any premium paid under such policy, there shall be excluded the amount of the charge for the nonaccident or nonhealth coverage if—

''(A) the charge for such nonaccident or nonhealth coverage is either separately stated in the policy, or furnished to the policyholder in a separate statement, and

''(B) such charge is reasonable in relation to the total charges under the policy.

In any other case, the entire amount of the premium paid under such policy shall be subject to tax under subsection (a)(1).

''(4) TREATMENT OF PREPAID HEALTH COVERAGE ARRANGEMENTS.—

''(A) IN GENERAL.—In the case of any arrangement described in subparagraph (B)—

''(i) such arrangement shall be treated as a taxable health insurance policy,

''(ii) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a taxable health insurance policy, and

''(iii) the person referred to in subparagraph (B)(i) shall be treated as the issuer.

''(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement is described in this subparagraph if under such arrangement—

''(i) fixed payments or premiums are received as consideration for any person's agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided, and

''(ii) substantially all of the risks of the rates of utilization of services is assumed by such person or the provider of such services.

''(d) HEALTH-RELATED ADMINISTRATIVE SERVICES.—For purposes of this section, the term 'health-related administrative services' means—

''(1) the processing of claims or performance of other administrative services in connection with accident or health coverage under a taxable health insurance policy if the charge for such services is not included in the premiums under such policy, and

''(2) processing claims, arranging for provision of accident or health coverage, or performing other administrative services in connection with an applicable self-insured health plan (as defined in section 4502(c)) established or maintained by a person other than the person performing the services.

For purposes of paragraph (1), rules similar to the rules of subsection (c)(3) shall apply.

''SEC. 4502. SELF-INSURED HEALTH PLANS.

''(a) IMPOSITION OF TAX.—In the case of any applicable self-insured health plan, there is hereby imposed a tax for each month equal to 1.5 percent of the sum of—

''(1) the accident or health coverage expenditures for such month under such plan, and

''(2) the administrative expenditures for such month under such plan to the extent such expenditures are not subject to tax under section 4501.

In determining the amount of expenditures under paragraph (2), rules similar to the rules of subsection (d)(3) apply.

''(b) LIABILITY FOR TAX.—

''(1) IN GENERAL.—The tax imposed by subsection (a) shall be paid by the plan sponsor.

''(2) PLAN SPONSOR.—For purposes of paragraph (1), the term 'plan sponsor' means—

''(A) the employer in the case of a plan established or maintained by a single employer,

''(B) the employee organization in the case of a plan established or maintained by an employee organization, or

''(C) in the case of—

''(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

''(ii) a voluntary employees' beneficiary association under section 501(c)(9), or

''(iii) any other association plan,

the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

''(c) APPLICABLE SELF-INSURED HEALTH PLAN.—For purposes of this section, the term 'applicable self-insured health plan' means any plan for providing accident or health coverage if any portion of such coverage is provided other than through an insurance policy.

''(d) ACCIDENT OR HEALTH COVERAGE EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The accident or health coverage expenditures of any applicable self-insured health plan for any month are the aggregate expenditures paid in such month for accident or health coverage provided under such plan to the extent such expenditures are not subject to tax under section 4501.

''(2) TREATMENT OF REIMBURSEMENTS.—In determining accident or health coverage expenditures during any month of any applicable self-insured health plan, reimbursements (by insurance or otherwise) received during such month shall be taken into account as a reduction in accident or health coverage expenditures.

''(3) CERTAIN EXPENDITURES DISREGARDED.—Paragraph (1) shall not apply to any expenditure for the acquisition or improvement of land or for the acquisition or improvement of any property to be used in connection with the provision of accident or health coverage which is subject to the allowance under section 167, except that, for purposes of paragraph (1), allowances under section 167 shall be considered as expenditures.

''SEC. 4503. TRANSFER TO ACCOUNTS.

''For fiscal year 1998 and each subsequent fiscal year, there are hereby appropriated and transferred to the Medical Education Trust Fund amounts equivalent to taxes received in the Treasury under sections 4501 and 4502, of which—

''(1) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred to the Medical Education Trust Fund under title XXI of the Social Security Act under this section bears to the total amounts transferred to such Trust Fund (excluding amounts transferred under subsections (c)(3) and (d) of section 2101 of such Act) for such fiscal year; and

''(2) the remainder shall be allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account, in the same proportion as the amounts transferred to such account under section 1886(j) relate to the total amounts transferred under such section for such fiscal year.

Such amounts shall be transferred in the same manner as under section 9601.

''SEC. 4504. DEFINITIONS AND SPECIAL RULES.

''(a) DEFINITIONS.—For purposes of this subchapter—

''(1) ACCIDENT OR HEALTH COVERAGE.—The term 'accident or health coverage' means any coverage which, if provided by an insurance policy, would cause such policy to be a taxable health insurance policy (as defined in section 4501(c)).

''(2) INSURANCE POLICY.—The term 'insurance policy' means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

''(3) PREMIUM.—The term 'premium' means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued by a person acting as the primary insurer, adjusted for any return or additional premiums paid as a result of endorsements, cancellations, audits, or retrospective rating. Amounts returned where the amount is not fixed in the contract but depends on the experience of the insurer or the discretion of management shall not be included in return premiums.

''(4) UNITED STATES.—The term 'United States' includes any possession of the United States.

''(b) TREATMENT OF GOVERNMENTAL ENTITIES.—

''(1) IN GENERAL.—For purposes of this subchapter—

''(A) the term 'person' includes any governmental entity, and

''(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the taxes imposed by this subchapter except as provided in paragraph (2).

''(2) EXEMPT GOVERNMENTAL PROGRAMS.—In the case of an exempt governmental program—

''(A) no tax shall be imposed under section 4501 on any premium received pursuant to such program or on any amount received for health-related administrative services pursuant to such program, and

''(B) no tax shall be imposed under section 4502 on any expenditures pursuant to such program.

''(3) EXEMPT GOVERNMENTAL PROGRAM.—For purposes of this subchapter, the term 'exempt governmental program' means—

''(A) the insurance programs established by parts A and B of title XVIII of the Social Security Act,

''(B) the medical assistance program established by title XIX of the Social Security Act,

''(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

''(i) members of the Armed Forces of the United States, or

''(ii) veterans, and

''(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

''(c) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.''.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by inserting after the item relating to chapter 36 the following new item:

''CHAPTER 37. Health related assessments.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to premiums received, and expenses incurred, with respect to coverage for periods after September 30, 1997.

SEC. 6. MEDICAL EDUCATION ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established an advisory commission to be known as the Medical Education Advisory Commission (in this section referred to as the ''Advisory Commission'').

(b) DUTIES.—

(1) IN GENERAL.—The Advisory Commission shall—

(A) conduct a thorough study of all matters relating to—

(i) the operation of the Medical Education Trust Fund established under section 2;

(ii) alternative and additional sources of graduate medical education funding;

(iii) alternative methodologies for compensating teaching hospitals for graduate medical education;

(iv) policies designed to maintain superior research and educational capacities in an increasing competitive health system;

(v) the role of medical schools in graduate medical education; and

(vi) policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals;

(B) develop recommendations, including the use of demonstration projects, on the matters studied under subparagraph (A) in consultation with the Secretary of Health and Human Services and the entities described in paragraph (2);

(C) not later than January 1999, submit an interim report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services; and

(D) not later than January 2001, submit a final report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services.

(2) ENTITIES DESCRIBED.—The entities described in this paragraph are—

(A) other advisory groups, including the Council on Graduate Medical Education, the Prospective Payment Assessment Commission, and the Physician Payment Review Commission;

(B) interested parties, including the Association of American Medical Colleges, the Association of Academic Health Centers, and the American Medical Association;

(C) health care insurers, including managed care entities; and

(D) other entities as determined by the Secretary of Health and Human Services.

(c) NUMBER AND APPOINTMENT.—The membership of the Advisory Commission shall include 9 individuals who are appointed to the Advisory Commission from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary of Health and Human Services, and shall include individuals from each of the following categories:

(1) Physicians who are faculty members of medical schools.

(2) Officers or employees of teaching hospitals.

(3) Officers or employees of health plans.

(4) Deans of medical schools.

(5) Such other individuals as the Secretary determines to be appropriate.

(d) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Advisory Commission shall serve for the lesser of the life of the Advisory Commission, or 4 years.

(2) SERVICE BEYOND TERM.—A member of the Advisory Commission may continue to serve after the expiration of the term of the member until a successor is appointed.

(e) VACANCIES.—If a member of the Advisory Commission does not serve the full term applicable under subsection (d), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(f) CHAIR.—The Secretary of Health and Human Services shall designate an individual to serve as the Chair of the Advisory Commission.

(g) MEETINGS.—The Advisory Commission shall meet not less than once during each 4-month period and shall otherwise meet at the call of the Secretary of Health and Human Services or the Chair.

(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Advisory Commission shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Advisory Commission. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.—

(1) STAFF DIRECTOR.—The Advisory Commission shall, without regard to the provisions of title 5, United States Code, relating to competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under 5382 of title 5, United States Code.

(2) ADDITIONAL STAFF.—The Secretary of Health and Human Services shall provide to the Advisory Commission such additional staff, information, and other assistance as may be necessary to carry out the duties of the Advisory Commission.

(j) TERMINATION OF THE ADVISORY COMMISSION.—The Advisory Commission shall terminate 90 days after the date on which the Advisory Commission submits its final report under subsection (b)(1)(D).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 7. DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish, by regulation, guidelines for the establishment and operation of demonstration projects which the Medical Education Advisory Commission recommends under subsection (b)(1)(B) of section 6.

(b) FUNDING.—

(1) IN GENERAL.—For any fiscal year after 1997, amounts in the Medical Education Trust Fund under title XXI of the Social Security Act shall be available for use by the Secretary in the establishment and operation of demonstration projects described in subsection (a).

(2) FUNDS AVAILABLE.—

(A) LIMITATION.—Not more than 1/10 of 1 percent of the funds in such trust fund shall be available for the purposes of paragraph (1).

(B) ALLOCATION.—Amounts under paragraph (1) shall be paid from the accounts established under paragraphs (2) through (5) of section 2101(a) of the Social Security Act, in the same proportion as the amounts transferred to such accounts bears to the total of amounts transferred to all 4 such accounts for such fiscal year.

(c) LIMITATION.—Nothing in this section shall be construed to authorize any change in the payment methodology for teaching hospitals and medical schools established by this Act.

SUMMARY OF THE MEDICAL EDUCATION TRUST FUND ACT OF 1997

OVERVIEW

The legislation establishes a Medical Education Trust Fund to support America's 142

medical schools and 1,250 teaching hospitals. These institutions are in a precarious financial situation as market forces reshape the health care delivery system. Explicit and dedicated funding for these institutions will guarantee that the United States continues to lead the world in the quality of its health care system.

The Medical Education Trust Fund Act of 1997 recognizes the need to begin moving away from existing medical education payment policies. Funding would be provided for demonstration projects and alternative payment methods, but permanent policy changes would await a report from a new Medical Education Advisory Commission established by the bill. The primary and immediate purpose of the legislation is to establish as Federal policy that medical education is a public good which should be supported by all sectors of the health care system.

To ensure that the burden of financing medical education is shared equitably by all sectors, the Medical Education Trust Fund will receive funding from three sources: a 1.5 percent assessment on health insurance premiums (the private sector's contribution), Medicare, and Medicaid (the public sector's contribution). The relative contribution from each of these sources is in rough proportion to the medical education costs attributable to their respective covered populations.

Over the five years following enactment, the Medical Education Trust Fund will provide average annual payments of about $17 billion, roughly doubling federal funding for medical education. The assessment on health insurance premiums (including self-insured health plans) contributes approximately $4 billion per year to the Trust Fund. Federal health programs contribute about $13 billion per year to the Trust Fund: $9 billion in transfers of current Medicare graduate medical education payments and $4 billion in federal Medicaid spending.

Estimated average annual trust fund revenue by source, first 5 years

[In billions of dollars]

1.5 percent assessment	4
Medicare	9
Medicaid	4
Total	17

INTERIM PAYMENT METHODOLOGIES

Payments to Medical Schools

Medical schools rely on a portion of the clinical practice revenue generated by their faculties to support their operations. As competition within the health system intensifies and managed care proliferates, these revenues are being constrained. Payments to medical schools from the Trust Fund are designed to partially offset this loss of revenue. Initially, these payments will be based upon an interim methodology developed by the Secretary of Health and Human Services.

Payments to Teaching Hospitals

To cover the costs of education, teaching hospitals have traditionally charged higher rates than other hospitals. As private payers become increasingly unwilling to pay these higher rates, the future of these important institutions, and the patient care, training, and research they provide, is placed at risk. Payments from the Trust Fund reimburse teaching hospitals for both the direct[1] and indirect[2] costs of graduate medical education.

Payments for direct costs are based on the actual of costs of employing medical residents. Payments for indirect costs are based on the number of patients cared for in each hospital and the severity of their illnesses as well as a measure of the teaching load in that hospital.[3] For the purposes of payments to teaching hospitals, the allocation of Medicare funds is based on the number of Medicare patients in each hospital; the allocation of the tax revenue and Medicaid funds is based on the number of non-Medicare patients in each hospital.

The legislation also includes a ''carve out'' of graduate medical education payments from Medicare's payment to HMOs. Under current law, this payment is based on Medicare's average fee-for-service costs—including graduate medical education costs. Therefore, every time a Medicare beneficiary enrolls in an HMO, money that was being paid to teaching hospitals for medical education in the form of additional payments for direct and indirect costs, is paid instead to an HMO as part of a monthly premium. There is no requirement that HMOs use any of this payment to support medical education. Over a four-year period, the legislation removes graduate medical education payments from HMO payment calculation. These funds are deposited into the Medical Education Trust Fund and paid directly to teaching hospitals.

MEDICAL EDUCATION ADVISORY COMMISSION

The legislation also establishes a Medical Education Advisory Commission to conduct a study and make recommendations, including the potential use of demonstration projects, regarding the following: Operations of the Medical Education Trust Fund; alternative and additional sources of medical education financing; alternative methodologies for distributing medical education payments; policies designed to maintain superior research and educational capacities in an increasingly competitive health system; the role of medical schools in graduate medical education; and policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals.

The Commission, comprised of nine individuals appointed by the Secretary of Health and Human Services, will be required to issue an interim report no later than January 1, 1999, and a final report no later than January 1, 2001.

FOOTNOTES

[1] Medical residents' salaries are the primary direct cost.

[2] These indirect costs include the cost of treating more seriously ill patients and the costs of additional tests that may be ordered by medical residents.

[3] The legislation will use Medicare's measure of teaching load as an interim measure.

By Mr. MOYNIHAN:

S. 22. A bill to establish a bipartisan national commission to address the year 2000 computer problem; to the Committee on Governmental Affairs.

THE YEAR 2000 COMPUTER PROBLEM LEGISLATION

Mr. MOYNIHAN. Mr. President, 1,074 days. Rather, one thousand seventy-four days and counting. We have 1,074 days until January 1, 2000. Historically, the passage of the century has caused quite a stir. Until now, however, there has been little factual basis on which doomsayers and apocalyptic fearmongers could spread their gospel. I rise today, on the first day of legislative business in the 105th Congress, to warn that we have cause for fear.

In the 6th century AD, the Western world began the practice of numbering years consecutively. The 6th-century monk, Dionysius Exiguus (known as ''Denis the Small''), introduced the first consecutive year calendar. Popular mythology would have us believe that at the end of the first millennium, Christians and pagans everywhere were cowering in fear of the end of the world. Yet, current historians believe that at the end of the year 999, much of the populace had no idea what year it was, and thus no idea that the millennium was coming to a close. In an ironic twist of fate, many calendars in our current, most advanced technological society ever may be as inaccurate as those of the people who faced the beginning of the Second Millennia A.D.

I have no proof that the Sun is about to rise on the apocalyptic millennium of which chapter 20 of the Book of Revelation speaks, nor do I have proof that, armed with flood and catastrophe, the Four Horseman will arrive on January 1, 2000. I do know, however, that a seemingly innocuous ''computer glitch'' relating to how computers use the date could wreak worldwide havoc. This lack of recognition on the part of computers—called the year 2000 Computer Problem, or ''Y2K'' as computer aficionados call it—could cause everything from the failure of weapons systems, widespread disruption of business operations, the miscalculation of taxes by the Internal Revenue Service, possible misdiagnosis or improper medical treatment due to errors in medical records, to incorrect traffic signals at street corners across the country.

In the 1950's and 1960's, computer programmers decided that, in order to minimize the consumption of computer memory, most computer languages would be designed to express the date with only six digits. In this format, the date of this speech would be 97–01–21. The century designation ''19'' is assumed. The problem is that many programs will read January 1, 2000 as January 1, 1900. Millions of computer programs will not function correctly because they cannot recognize the 21st century. The answer to this problem is a costly, time-consuming process of rewriting the computer codes.

Estimates to fix the problem in the United States alone are in the range of $300 billion ($600 billion worldwide). That's billion with a ''B''. Experts have estimated that about half the cost of upgrading U.S. computers will have to be paid by Government entities. Furthermore, the cost of fixing the 'Y2K' problem will increase at 20–50 percent per year due to the decreasing supply of, and increasing demand for, the skilled professionals who can rewrite the codes.

There is no time to cower at the immensity and pervasiveness of the problem, even though it is true that at our current rate of addressing this problem, millions of computer programs across the globe will not recognize the year 2000. We have developed the medicine to cure the disease. It is our job to recognize the extent of our ills and the time-consuming nature of the cure.

I now enter my second year warning of this problem. People have begun to

[1] *Footnotes to appear at end of article.

listen. But neither the public nor private sector is anywhere near where they need to be. I congratulate my counterparts in the other Chamber of Congress, namely Representative STEPHEN HORN, Representative CAROLYN MALONEY, Representative CONNIE MORELLA, and Representative JOHN TANNER, who have held hearings on this matter and helped uncover the Federal Government's lack of preparation for this crisis. The administration has only begun to stir.

In his November 25, 1996 letter (answering my July 31st letter to the President) Franklin Raines, the Director of the Office of Management and Budget, stated that:

> We have been meeting with senior agency officials and urging them to complete their assessments of the scope of the problem now, so they will have time to fix it. We have assurances that all of their systems will either be fixed, replaced, or scrapped before 2000, and we will continue to monitor their progress. As we develop the President's 1998 budget, we are working with the agencies to assure that there is adequate funding to support agency year 2000 activities.

Mr. Raines paints a much more comfortable picture than was revealed in the Congressional findings of just 2 months prior. In September 1996, the House Committee on Government Oversight reported that: only 9 of the 24 departments and agencies (which the Committee had just queried) had a plan for addressing the problem; five had not even designated an official within the organization to be responsible for the problem; and 17 of the departments and agencies lacked any cost estimates for the problem. I am encouraged that Representative STEPHEN HORN (R-CA) will continue his subcommittee's oversight hearings on February 24, 1997.

Yet, someone or something needs to ensure that the Federal Government, State governments, and all sectors of the economy are ''Year 2000 Compliant.'' The OMB has neither the staff nor the resources to do this alone. I am introducing today a revamped bill that will set up a Commission to address this problem.

Commissions are not by definition weak. This commission will assume responsibility for assuring that all Federal agencies are Year 2000 compliant by January 1, 1999 (a year early, so as to leave enough time for testing—some say the longest part). The Commission will be composed of experts on the Federal response and the State response in order to face the problems of integration. The Commission will prioritize which agencies are most at risk of not performing vital functions, and through its reports to the President and Congress, it will recommend the appropriate triage process and medicine. It it not enough to recognize that this problem exists. Unless we install the doctors for the triage, the Y2K disease will manifest itself in all sectors of government and the economy.

We are told that the President will include adequate funding for the Executive Agencies in his budget plan for fiscal year 1998. My hope is that Congress will recognize the importance of providing the funding now; for if we wait, not only will the costs rise, but we are liable to see major Government agencies and State governments unable to perform critical functions.

It is January 21 of 1997; we have 1,074 days remaining until January 1, 2000. Too late to lament, time to act.

In the first stanza of his epic work, ''The Second Coming,'' Yeats wrote of the onslaught of the apocalypse:

> Turning and turning in the widening gyre
> The falcon cannot hear the falconer;
> Things fall apart; the center cannot hold;
> Mere anarchy is loosed upon the world,
> The blood dimmed tide is loosed . . .

At the upcoming turn of the millennium, we cannot test what ''blood dimmed tide'' computer malfunctions could loose on our society.

By Mr. SPECTER (for himself and Ms. MOSELEY-BRAUN):

S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

NEW AGENDA FOR AIDING AMERICA'S CITIES ACT OF 1997

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation that will deal with the plight of our nation's cities and Washington's increasing neglect of them. There is an urgent need to improve our urban economies and the quality of life for the millions of American who live in our cities. My proposal, the ''New Agenda For Aiding America's Cities Act of 1997'' is based on legislation which I introduced in the 103rd and 104th Congress along with my distinguished colleague, Senator CAROL MOSELEY-BRAUN, and I am pleased she is again joining in this effort. The bill constitutes an effort to give our cities some much-needed attention, but reflects the federal budget constraints which govern all that we in Congress do these days.

This bill, based in significant part on suggestions by Philadelphia Mayor Edward G. Rendell and the League of Cities, offers aid to the cities without increasing federal expenditures and by re-instituting important cost-effective tax breaks which have been discontinued.

If we are to really address many of the very serious social issues that we face—unemployment, teenage pregnancy, welfare dependency, and other pressing issues—we cannot give up on our cities. There must be new strategies for dealing with the problems of urban America. The days of creating ''Great Society'' federal aid programs are clearly past, but that is no excuse for the national government to turn a blind eye to the problems of the cities.

The goals of this initiative have strong bipartisan support as indicated during the vice-presidential debate in the 1996 campaign, where both the Republican and Democratic candidates spoke of the need to focus our economic resources in our nation's urban areas. The recent November elections reaffirm the basic principle of limited government. Limited government, however, does not mean an uncaring or do-nothing government.

The impact of last year's welfare reform legislation also requires close scrutiny on what will be happening to America's big cities.

Urban areas remain integral to America's greatness as centers of commerce, industry, education, health care, and culture. Yet urban areas, particularly the inner cities which tend to have a disproportionate share of our nation's poor, also have special needs which must be recognized. We must develop ways of aiding our cities that do not require either new taxes or more government bureaucracy.

I commend the Mayor of Philadelphia, Edward Rendell, for his efforts to revitalize America's cities. Collaborating with the Conference of Mayors and the National League of Cities, he proposed in 1994 a ''New Urban Agenda.'' Much of that proposal is the basis of this legislation.

As a Philadelphia resident, I have first-hand knowledge of the growing problems that plague our cities. As of 1990, Philadelphia had over 300,000 individuals in poverty. Reflecting on my experience as a Philadelphian, I have long supported a variety of programs to assist our cities, such as increased funding for Community Development Block Grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April, 1994, I hosted my Senate Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who wanted to obtain work, but had found few opportunities. We saw a crumbling infrastructure and its impact on residents and businesses. We were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods in America's cities. What my Republican colleagues saw then in Philadelphia is the urban rule across our country and not the exception.

There are many who do not know of city life, who are far removed from the cities and would not be expected to have any key interest in what goes on in the big cities of America. I cite my own boyhood experience illustratively: Born in Wichita, Kansas, raised in Russell, a small town of 5,000 people on the plains of Kansas, where there is not much detailed knowledge of what goes on in Philadelphia, Pennsylvania, or other big cities like Los Angeles, San Francisco, New York, Miami, Pittsburgh, Dallas, Detroit or Chicago.

Those big cities are alien to people in much of America. But there is a growing understanding that the problems of big cities contribute significantly to the general problems affecting our nation and have an economic impact, at the very least, on our small towns. For rural America to prosper, we need to make sure that urban America prospers and vice-versa. For example, if

cities had more economic growth, taxes could be reduced on all Americans at the federal and state level because revenues would increase and social welfare spending would be reduced.

What are the problems? Crime for one. Take the Bloods and the Crips gangs from Los Angeles, California, and similar gangs; that are all over America. They are in Lancaster, Pennsylvania; Des Moines, Iowa; Portland, Oregon; Jackson, Mississippi; Racine, Wisconsin; and Martinsburg, West Virginia. They are literally everywhere, big city and small city alike.

According to the National League of Cities 1992 report, ''State of America's Cities,'' 397 randomly selected municipal leaders said that after overall economic conditions, crime and drugs were the second and third items that had caused their cities to deteriorate the most in the prior five years. In Atlanta, the number of crimes per 100,000 people was 17,067, making it number one in 1995. We have all heard of that unenviable moniker for our nation's capital—the ''murder capital.''

Not just municipal leaders voice concern about crime's impact. Mr. Scott Zelov, President of VIZ Manufacturing in the Germantown section of Philadelphia, told my staff that his workers can't even walk to work in safety anymore, making it difficult for him to retain his employees and to continue to stay in business, causing him to consider moving out of the city to a safer location or even closing his business altogether.

Dan DeRitis, owner of Sisko, Inc., a property management and development company in the University City section of West Philadelphia, wrote to me to tell me while he has been a resident and business owner in West Philadelphia for more than twenty years, and while the city had been good to him and his family in the past, recently, he has had reason to fear for the safety of his children, his employees and ultimately, his business. He looks desperately for reasons to stay, but everyday it gets harder and harder.

Joblessness and a less skilled work force is another problem. To facilitate economic development and job creation in the United States, I supported the Balanced Budget Act of 1995, which contained such provisions as the Job Training Partnership Act and the Targeted Job Tax Credit. As Congress put the final touches on that legislation, I circulated a joint letter from several Senators to then-Majority Leader Dole and Speaker GINGRICH recommending spurring job creation and economic growth in our cities through several urban initiatives such as: a targeted capital gains exclusion, commercial revitalization tax credit, historic rehabilitation tax credit, and child care credit.

As part of that effort, on December 19, 1995, I arranged a meeting between Majority Leader Dole and Mayors Edward Rendell of Philadelphia, Thomas Menino of Boston, Richard Daley of Chicago, and Victor Ashe, of Knoxville, Tennessee, to discuss their top tax priorities, which were reflected in the joint letter to the Majority Leader Dole and Speaker Gingrich. In that meeting the Mayors stressed the necessity of strengthening economic growth in our urban centers to impact directly on social ills identified with weak economic infrastructures. These problems include poverty, crime, and joblessness. Census data from 1990 shows that many of our urban centers suffered from critically high poverty rates as of 1989.

As of 1990, New York City led the way, with 1.3 million individuals in poverty. My home of Philadelphia had 313,374 individuals in poverty at that time. These facts emphasize the need for more efforts to be focused on strengthening our inner city businesses which, in turn, will boost local economies and serve to provide more jobs, reduce poverty and, hopefully, reduce crime.

I have previously introduced legislation to provide targeted tax incentives for investing in small minority- or women-owned businesses. Small businesses provide the bulk of the jobs in this country. Many minority entrepreneurs, for instance, have told me that they are dedicated to staying in the cities to employ people there, but continue to confront capital access issues. My ''Minority and Women Capital Formation Act of 1993'' would have helped remove the capital access barriers, thereby enabling these entrepreneurs to grow their businesses and payrolls.

Municipal leaders are stressing many of the same concerns that business people are voicing. In a July, 1994 National League of Cities report dealing with poverty and economic development, municipal leaders ranked inadequate skills and education of workers as one of the top three reasons, in addition to shortage of jobs and below-poverty wages, for poverty and joblessness in their cities. They said, according to the survey, that more jobs must be created through local economic development initiatives.

This ''skills deficit'' is highlighted in an urban revitalization plan prepared in 1991 by the National Urban League called ''Playing to Win: A Marshall Plan for America's Cities.'' The report cites a statistic by the Commission on Achieving Necessary Skills which showed that 60 percent of all 21–25 year-olds lack the basic reading and writing skills needed for the modern workplace, and only 10 percent of those in that age group have enough mathematical competence for today's jobs.

The economic problems our cities are facing are not easy to deal with or answer. In a report by the National League of Cities entitled ''City Fiscal Conditions in 1996,'' municipal officials from 381 cities answered questions on the economic state of their cities. In response to state budgetary problems, 21.7 percent of responding cities reduced municipal employment and 18.5 percent had frozen municipal employment. Nearly 6 out of 10 cities raised or imposed new taxes or user fees during the past twelve months.

These numbers are of concern to me and I believe they highlight the need for federal legislation to enhance the ability of cities to achieve competitive economic status. An added concern is that city managers are forced to balance cuts in services or enact higher taxes. Neither choice is easy and it often counteracts municipal efforts to retain residents or businesses.

One issue, in particular, that is hurting many cities is the erosion of their tax bases, evidenced particularly by middle-class flight to the suburbs. Mr. Ronald Walters, professor of Political Science at Howard University, in testimony before the Senate Banking Committee in April 1993, stated that in 1950, 23 percent of the American population lived outside central cities; by 1988, that number was up to 46 percent.

In an October 9, 1994 article in The Washington Post Magazine, David Finkel profiled Ward 7 of Washington, DC and wrote that Ward 7 lost 13,000 residents between 1980 and 1990 alone. He noted further that the population decline in Washington, DC has averaged 10,000 people a year since 1990. This trend continues into 1997. These losses are devastating, not only to the financial stability of the city, but to the social fabric as well.

On the financial side, statistics show that those people fleeing cities were earning an average of $30,000 to $75,000 a year. On the social side, roughly half of these are African-American middle-class families. By losing this critical demographic group, the city loses much of what makes it strong.

Eroding tax bases are also caused by job-flight and job loss. Professor Walters testified that Chicago lost 47 percent of its manufacturing jobs between 1972 and 1982. Los Angeles lost 327,000 jobs, half of which were in the manufacturing sector. More recently, according to Census data, New York City had only 11.4 percent of its population employed in manufacturing. According to Stephen Moore and Dean Stansel in a March, 1994 USA Today Magazine article, since the 1970's more than 50 Fortune 500 company headquarters have fled New York City, representing a loss of over 500,000 jobs.

It is clear that the social fabric of our cities is also deteriorating. The issues of infant mortality and single-parent families are tragic problems that plague American urban areas. According to 1990 Census data, Washington, DC ranked first out of 77 cities for infant death rates per 1,000 live births in 1988. Detroit led the same number of cities in the percentage of one-parent households in 1990 at 53 percent.

When I traveled to Pittsburgh in 1984, I saw one-pound babies for the first time and I learned that Pittsburgh had the highest infant mortality rate of African-American babies of any city in the United States. It is a human tragedy for a child to be born weighing 16

ounces with attendant problems that last a lifetime. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a one-pound baby, about as big as my hand. Indeed, our cities are desperate, and the issues are heavy.

Historically, cities have been the center of commerce and culture. Surrounding communities have relied on a thriving, growing economy in our metropolitan areas to provide jobs and opportunities. As I have noted though, over the past several decades, America's cities have struggled with the loss or exodus of residents, businesses and industry and other problems. The resulting tax base shrinkage causes enormous budget problems for city governments. Across the country, cities such as New York, Los Angeles, and the District of Columbia have experienced the flight of major industries to the suburbs.

As a result, city residents who remain are faced with problems ranging from increased tax burdens and lesser services to dwindling economic opportunities, leading to welfare dependence and unemployment assistance. In the face of all this, what do we do?

The federal government has attempted to revitalize our ailing urban infrastructure by providing federal funding for transit and sewer systems, roads and bridges. I have supported this. For example, as a member of the Transportation Appropriations Subcommittee and as co-chair of an informal Senate Transit Coalition, I have been a strong supporter of public transit which provides critically needed transportation services in urban areas. Transit helps cities meet clean air standards, reduce traffic congestion, and allows disadvantaged persons access to jobs. Federal assistance for urban areas, however, has become increasingly scarce as we grapple with the nation's deficit and debt. Therefore, we must find alternatives to reinvigorate our nation's cities so they can once again be economically productive areas providing promising opportunities for residents and neighboring areas.

I believe there are ways Congress can assist the cities. In 1994, Mayor Rendell came up with a legislative package which contains many good ideas. I have since added and revised provisions to take into account new developments at the federal, state and local levels.

First, recognizing that the federal government is the nation's largest purchaser of goods and services, this legislation would require that no less than 15 percent of federal government purchases be made from businesses and industries within designated urban Empowerment Zones and Enterprise Communities. Similarly, it would require that not less than 15 percent of foreign aid funds be redeemed through purchases of products manufactured in urban Empowerment Zones and Enterprise Communities. I presented this idea to then-Treasury Secretary Bentsen at a March 22, 1994, hearing of the Appropriations Subcommittee on Foreign Operations. The Secretary responded favorably.

I have also written to several mayors across the country regarding this concept. By letter dated July 28, 1994, Miami Mayor Stephen P. Clark responded: ''Miami's selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas.'' Miami has a wide range of businesses, such as high-technology firms and medical equipment manufacturers that would benefit from this provision. And by letter dated April 6, 1994, Harrisburg, Pennsylvania Mayor Stephen R. Reed wrote: ''Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers. . . Therefore, in brief, we believe the voucher proposal has considerable merit and that this city would benefit from the same.'' I ask unanimous consent that a copy of my letter and the letters from Mayor Clark and Mayor Reed be included in the RECORD at the end of my statement.

The second major provision of this bill would commit the federal government to play an active role in restoring the economic health of our cities by encouraging the location, or relocation, of federal facilities in urban areas. To accomplish this, all federal agencies would be required to prepare and submit to the President an Urban Impact Statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a federal facility outside an urban area, or to downsize a city-based agency.

The third critical component of this bill would revive and expand federal tax incentives that were eliminated or restricted in the Tax Reform Act of 1986. Until there is passage of legislation on the flat tax, which would provide benefits superior to all targeted tax breaks, I believe America's cities should have the advantages of such tax benefits. These provisions offer meaningful incentives to business to invest in our cities. I am calling for the restoration of the Historic Rehabilitation Tax Credit which supports inner city revitalization projects. According to information provided by Mayor Rendell, there were 8,640 construction jobs involved in 356 projects in Philadelphia from 1978 to 1985 stimulated by the Historic Rehabilitation Tax Credit. In Chicago, 302 projects prior to 1985 generated $524 million in investment and created 20,695 jobs. In St. Louis, 849 projects generated $653 million in investment and created 27,735 jobs.

Nationally, according to National Park Service estimates for the 16 years before the 1986 Act, the Historic Rehabilitation Tax Credit stimulated $16 billion in private investment for the rehabilitation of 24,656 buildings and the creation of 125,306 homes which included 23,377 low and moderate income housing units. The 1986 Tax Act dramatically reduced the pool of private investment capital available for rehabilitation projects. In Philadelphia, projects dropped from 356 to 11 by 1988 from 1985 levels. During the same period, investments dropped 46 percent in Illinois and 92 percent in St. Louis.

Another tool is to expand the authorization of commercial industrial development bonds. Under the Tax Reform Act of 1986, authorization for commercial industrial bonds was permitted to expire. Consequently, private investment in cities declined. For instance, according to Mayor Rendell, from 1986—the last year commercial development bonds were permitted—to 1987, the total number of city-supported projects in Philadelphia was reduced by more than half.

Industrial development or private activity bonds encourage private investment by allowing, under certain circumstances, tax-exempt status for projects where more than 10 percent of the bond proceeds are used for private business purposes. The availability of tax-exempt commercial industrial development bonds will encourage private investment in cities, particularly the construction of sports, convention and trade show facilities; free standing parking facilities owned and operated by the private sector; air and water pollution facilities owned and operated by the private sector; and, industrial parks.

The bill I am introducing would allow this. It would also increase the small issue exemption—which means a way to help finance private activity in the building of manufacturing facilities—from $10 million to $50 million to allow increased private investment in our cities.

A minor change in the federal tax code related to arbitrage rebates on municipal bond interest earnings could also free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the federal government any arbitrage—a financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. I am informed that compliance, or the cost for consultants to perform the complicated rebate calculations, is actually costing municipalities more than the actual rebate owed to the government. This bill would allow cities to keep the arbitrage earned so that they can use it to fund city projects and for other necessary purposes.

My legislation also provides important incentives for businesses to invest and locate in our nation's cities. Specifically, the bill includes a provision which I have advocated to provide a 50 percent exclusion for capital gains tax purposes for any gain resulting from targeted investments in small businesses located in urban empowerment

zones, enterprise communities, or enterprise zones. I also want to note that the exclusion would extend to any venture funds that invest in those small businesses, which is critical because venture funds are often the lifeblood of a small business. This is one of the incentives I recommended to Senator Dole in December, 1995 for inclusion in the Balanced Budget Act of 1995 which was later vetoed by President Clinton. A targeted capital gains exclusion will serve as a catalyst for job creation and economic growth in our cities by encouraging additional private investment in our urban areas.

A fourth provision of this legislation provides needed reforms to regulations concerning affordable housing. This legislation provides language to study streamlining federal housing program assistance to urban areas into ''block grant'' form so that municipal agencies can better serve local residents. Affordable housing is not currently widely available to most low income families. According to the National Housing Law Project, in 1996, only one in four families were eligible to receive HUD assistance. The bill would improve the circumstances of public housing tenants by encouraging the location of newly built units on the lots of demolished older housing and allowing the original residents to move into the new units. This provision will contribute to community stability and promote urban renewal.

Last, this bill helps urban areas by taking several important steps toward reforming the current Superfund law. First, the legislation authorizes a federal brownfields program to help clean up idle or underused industrial and commercial facilities and waives federal liability for persons who fully comply with a state cleanup plan to clean sites in urban areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List. The Environmental Protection Agency currently operates this pilot program under general authority provided by the Superfund law. My legislation would make this a permanent program and substantially increase the funding levels from $36.7 million to a $50 million authorized level for FY'98. The EPA could expend funds to identify and examine potential idle or underused Brownfield sites and to provide grants to States and local governments of up to $200,000 per site to put them back to productive use. One such grant has been used to great success by Pittsburgh Mayor Tom Murphy, and I hope this provision will generate additional success stories of redeveloping urban brownfields.

The Brownfields program allows sites with minor levels of toxic waste to be cleaned up by State and local governments with federal and non-federal funds. Companies and individuals who are interested in developing land into industrial, commercial, recreational, or residential use are often reluctant to purchase property with any level of toxic waste because of a fear of being saddled with cleanup liability under the Superfund law. Through expanded Brownfields grants, cleanup at such sites will be expedited and will encourage redevelopment of otherwise unusable urban property.

My bill would also waive federal liability for persons who fully comply with a state cleanup plan to clean sites in urban areas pursuant to state law, providing that the site is not listed or proposed to be listed on the National Priorities List. Many states, including Pennsylvania, have developed their own toxic waste cleanup programs and have done good work to clean up many of these sites. Pennsylvania Governor Tom Ridge has developed an extensive plan, where contaminated sites are made safe based on sound science by returning the site to productive use through the development of uniform cleanup standards, by creating a set of standardized review procedures, by releasing owners and developers from liability who fully comply with the state cleanup standards and procedures, and by providing financial assistance. However, the efforts of states like Pennsylvania are often stifled because the federal government has not been willing to work with the States to release owners and developers from liability, even when they fully comply with the state plans.

This section of my bill only applies only to sites that are not on the National Priorities List. These are sites that the state has identified for which the state has created a comprehensive cleanup plan. If the federal government has concerns with the cleanup procedure or the safety of the site, then the government has full authority to place that site on the National Priority List. The plans, like that developed by Governor Ridge, deal with sites not controlled by the Superfund law. By not allowing the individual states to take the initiative to clean up these sites, and by not providing a waiver for federal liability to those who fully comply with the procedures and standards of the state cleanup, the federal government chills the efforts of the states to work to clean up their own sites. This provision takes a significant step toward encouraging states to take the responsibility for their toxic waste sites and to encourage the effective cleanup of these sites in our nation's urban areas.

In the 103d Congress, my ''New Urban Agenda Act'' (S. 2535) contained a section that would eliminate unfunded federal mandates based on legislation I cosponsored in the 103d Congress (S. 993) which was introduced by my distinguished colleague from Idaho, Senator DIRK KEMPTHORNE. There is no longer a need to include that provision in my urban agenda bill because Congress enacted the unfunded federal mandates bill in February, 1995.

Mr. President, it may well be that America has given up on its cities. That is a stark statement, but it is one which I believe may be true—that America has given up on its cities. But this Senator has not done so. And I believe there are others in this body on both sides of the aisle who have not done so.

As one of a handful of United States Senators who lives in a big city, I understand both the problems and the promise of urban America. This legislation for our cities is good public policy. The plight of our cities must be of extreme concern to America. We can ill-afford for them to wither and die. I am committed to a new urban agenda that relies on market forces, and not welfare-statism, for urban revitalization. I invite the input and assistance of my colleagues in order to fashion a strong approach assisting the cities with their pressing problems.

I ask unanimous consent that my bill be printed in the RECORD as if read, along with an Executive Summary. I thank the Chair and yield the floor.

EXECUTIVE SUMMARY

NEW AGENDA FOR AIDING AMERICA'S CITIES ACT OF 1997

A. Promote Urban Economic Development through Empowerment and Enterprise Zones. Requires a portion of federal and foreign aid purchases (not less than 15 percent) to be from businesses operating in urban zones, and commits the government to purchase recycled products from businesses operating in urban zones.

B. Locating/Relocating Federal Facilities in Distressed Urban Areas. Requires an urban impact statement, with Presidential approval, that details the impact on cities of agency downsizing or relocation. Under the bill, a ''distressed urban area'' follows HUD's definition, namely any city having a population of more than 100,000.

C. Revives and Expands Federal Tax Incentives. Expands the Historic Rehabilitation Tax Credit which was reduced in 1986. It would restore the issuance of tax-free industrial development bonds and would allow cities to keep the arbitrage earned from the issuance of tax-free municipal bonds. Currently, local governments are required to rebate to the federal government arbitrage earned from the issuance of tax-free municipal bonds, and often spend more on compliance than on the actual rebate.

D. Contains Incentives for Businesses. To encourage businesses to invest and locate in our nation's cities, provides a 50 percent exclusion for capital gains tax purposes for any gain resulting from targeted investments in small businesses located in urban empowerment zones, enterprise communities, or enterprise zones. The exclusion also extends to any venture that invest in those small businesses.

E. Lifts Federal Restrictions on Community-Based Housing Development. To boost the efficiency of regional housing authorities, a study would be done to streamline current and future housing programs into ''block grants.'' The bill would also allow the reconstruction of new units on demolished sites, and relocate the original tenants to the newly constructed units.

F. Reforms Superfund Law to Encourage Industrial Cleanup. Authorizes an expanded federal brownfields grant program to help clean up idle or underused industrial and commercial facilities. Also provides regulatory relief by waiving federal liability for businesses and individuals that fully comply with a state cleanup plan to clean sites in

urban areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List.

S. 23

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 ''New Urban Agenda Act of 1997''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) cities in the United States have been facing an economic downhill trend in the past several years; and

(2) a new approach to help such cities prosper is necessary.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide various incentives for the economic growth of cities in the United States;

(2) provide an economic agenda designed to reverse current urban economic trends; and

(3) revitalize the jobs and tax base of such cities without significant new Federal outlays.

TITLE I—FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

SEC. 101. FEDERAL PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND ENTERPRISE ZONES.

(a) REQUIREMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

''PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND ENTERPRISE ZONES

''SEC. 38. (a) MINIMUM PURCHASE REQUIREMENT.—Not less than 15 percent of the total amount expended by executive agencies for the purchase of goods in a fiscal year shall be expended for the purchase of goods from businesses located in empowerment zones, enterprise communities, or enterprise zones.

''(b) RECYCLED PRODUCTS.—To the maximum extent practicable consistent with applicable law, the head of an executive agency shall purchase recycled products that meet the needs of the executive agency from businesses located in empowerment zones, enterprise communities, or enterprise zones.

''(c) REGULATIONS.—The Federal Acquisition Regulations shall include provisions that ensure the attainment of the minimum purchase requirement set out in subsection (a).

''(d) DEFINITIONS.—In this section:

''(1) The term 'empowerment zone' means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

''(2) The term 'enterprise community' means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

''(3) The term 'enterprise zone' has the meaning given such term in section 701(a)(1) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(a)(1)).''.

(b) EFFECTIVE DATE.—Section 38 of the Office of Federal Procurement Policy Act, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply with respect to fiscal years beginning after September 30, 1996.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new item:

''Sec. 38. Purchases from businesses in empowerment zones, enterprise communities, and enterprise zones.''.

SEC. 102. MINIMUM ALLOCATION OF FOREIGN ASSISTANCE FOR PURCHASE OF CERTAIN UNITED STATES GOODS.

(a) ALLOCATION OF ASSISTANCE.—Notwithstanding any other provision of law, effective beginning with fiscal year 1997, not less than 15 percent of United States assistance provided in a fiscal year shall be provided in the form of credits which may only be used for the purchase of United States goods produced, manufactured, or assembled in empowerment zones, enterprise communities, or enterprise zones within the United States.

(b) UNITED STATES ASSISTANCE.—As used in this section, the term ''United States assistance'' means—

(1) any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.);

(2) sales, or financing of sales under the Arms Export Control Act (22 U.S.C. 2751 et seq.); and

(3) assistance and other activities under the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).

SEC. 103. PREFERENCE FOR LOCATION OF MANUFACTURING OUTREACH CENTERS IN URBAN AREAS.

(a) DESIGNATION.—In designating an organization as a manufacturing outreach center under paragraph (11) of section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(11)), the Secretary of Commerce shall, to the maximum extent practicable, designate organizations that are located in empowerment zones, enterprise communities, or enterprise zones.

(b) FINANCIAL ASSISTANCE.—In utilizing a competitive, merit-based review process to determine the manufacturing outreach centers to which to provide financial assistance under such section, the Secretary shall give such additional preference to centers located in empowerment zones, enterprise communities, and enterprise zones as the Secretary determines appropriate in order to ensure the continuing existence of such centers in such zones.

SEC. 104. PREFERENCE FOR CONSTRUCTION AND IMPROVEMENT OF FEDERAL FACILITIES IN DISTRESSED URBAN AREAS.

(a) PREFERENCE.—Notwithstanding any other provision of law, in determining the location for the construction of a new facility of a department or agency of the Federal Government, in determining to improve an existing facility (including an improvement in lieu of such construction), or in determining the location to which to relocate functions of a department or agency, the head of the department or agency making the determination shall take affirmative action to construct or improve the facility, or to relocate the functions, in a distressed urban area.

(b) URBAN IMPACT STATEMENT.—A determination to construct a new facility of a department or agency of the Federal Government, to improve an existing facility, or to relocate the functions of a department or agency may not be made until the head of the department or agency making the determination prepares and submits to the President a report that—

(1) in the case of a facility to be constructed—

(A) identifies at least one distressed urban area that is an appropriate location for the facility;

(B) describes the costs and benefits arising from the construction and utilization of the facility in the area, including the effects of such construction and utilization on the rate of unemployment in the area; and

(C) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation;

(2) in the case of a facility to be improved that is not located in a distressed urban area—

(A) identifies at least one facility located in a distressed urban area that would serve as an appropriate alternative location for the facility;

(B) describes the costs and benefits arising from the improvement and utilization of the facility located in such area as an alternative location for the facility to be improved, including the effect of the improvement and utilization of the facility so located on the rate of unemployment in such area; and

(C) describes the effect on the economy of such area of the closure or consolidation, if any, of Federal facilities located in such area during the 10-year period ending on the date of the report, including the total number of

Federal and non-Federal employment positions terminated in such area as a result of such closure or consolidation;

(3) in the case of a facility to be improved that is located in a distressed urban area—

(A) describes the costs and benefits arising from the improvement and continuing utilization of the facility in the area, including the effect of such improvement and continuing utilization on the rate of unemployment in the area; and

(B) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation; or

(4) in the case of a relocation of functions—

(A) identifies at least one distressed urban area that would serve as an appropriate location for the carrying out of the functions;

(B) describes the costs and benefits arising from carrying out the functions in the area, including the effect of carrying out the functions on the rate of unemployment in the area; and

(C) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation.

(c) APPLICABILITY TO DEPARTMENT OF DEFENSE FACILITIES.—The requirements set forth in subsections (a) and (b) shall apply to a determination to construct or improve any facility of the Department of Defense, or to relocate any functions of the Department, unless the President determines that the waiver of the application of such requirements to the facility, or to such relocation, is in the national interest.

(d) DEFINITION.—In this section, the term ''distressed urban area'' means any city having a population of more than 100,000 that meets (as determined by the Secretary of Housing and Urban Development) the qualifications for making an Urban Development Action Grant to a community experiencing severe economic distress that are otherwise established for large cities and urban counties under subpart G of part 570 of title 24, Code of Federal Regulations.

SEC. 105. DEFINITIONS.

As used in this title:

(1) The term ''empowerment zone'' means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(2) The term ''enterprise community'' means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(3) The term ''enterprise zone'' has the meaning given such term in section 701(a)(1) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(a)(1)).

TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

SEC. 201. TREATMENT OF REHABILITATION CREDIT UNDER PASSIVE ACTIVITY LIMITATIONS.

(a) GENERAL RULE.—Paragraphs (2) and (3) of section 469(i) of the Internal Revenue Code of 1986 (relating to $25,000 offset for rental real estate activities) are amended to read as follows:

''(2) DOLLAR LIMITATIONS.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the aggregate amount to which paragraph (1) applies for any taxable year shall not exceed $25,000, reduced (but not below zero) by 50 percent of the amount (if any) by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

''(B) PHASEOUT NOT APPLICABLE TO LOW-INCOME HOUSING CREDIT.—In the case of the portion of the passive activity credit for any taxable year which is attributable to any credit determined under section 42—

''(i) subparagraph (A) shall not apply, and

''(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

''(I) $25,000, reduced by

''(II) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable and is not attributable to the rehabilitation credit determined under section 47) to which paragraph (1) applies after the application of subparagraph (A).

''(C) $55,500 LIMIT FOR REHABILITATION CREDITS.—In the case of the portion of the passive activity credit for any taxable year which is attributable to the rehabilitation credit determined under section 47—

''(i) subparagraph (A) shall not apply, and

''(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

''(I) $55,500, reduced by

''(II) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable) to which paragraph (1) applies for the taxable year after the application of subparagraphs (A) and (B).

''(3) ADJUSTED GROSS INCOME.—For purposes of paragraph (2)(A), adjusted gross income shall be determined without regard to—

''(A) any amount includable in gross income under section 86,

''(B) any amount excludable from gross income under section 135, 911, 931, or 933,

''(C) any amount allowable as a deduction under section 219, and

''(D) any passive activity loss.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 469(i)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) REDUCTION FOR SURVIVING SPOUSE'S EXEMPTION.—For purposes of subparagraph (A), the $25,000 amounts under paragraph (2)(A) and (2)(B)(ii) and the $55,500 amount under paragraph (2)(C)(ii) shall each be reduced by the amount of the exemption under paragraph (1) (determined without regard to the reduction contained in paragraph (2)(A)) which is allowable to the surviving spouse of the decedent for the taxable year ending with or within the taxable year of the estate.''.

(2) Subparagraph (A) of section 469(i)(5) of such Code is amended by striking clauses (i), (ii), and (iii) and inserting the following:

''(i) '$12,500' for '$25,000' in subparagraphs (A) and (B)(ii) of paragraph (2),

''(ii) '$50,000' for '$100,000' in paragraph (2)(A)'', and

''(iii) '$27,750' for '$55,500' in paragraph (2)(C)(ii).''.

(3) The subsection heading for subsection (i) of section 469 of such Code is amended by striking ''$25,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of the enactment of this Act, in taxable years ending on or after such date.

SEC. 202. REHABILITATION CREDIT ALLOWED TO OFFSET PORTION OF ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) REHABILITATION INVESTMENT CREDIT MAY OFFSET PORTION OF MINIMUM TAX.—

''(A) IN GENERAL.—In the case of the rehabilitation investment tax credit—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) for purposes of applying paragraph (1) to such credit—

''(I) the tentative minimum tax under subparagraph (A) thereof shall be reduced by the minimum tax offset amount determined under subparagraph (B) of this paragraph, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the rehabilitation investment tax credit).

''(B) MINIMUM TAX OFFSET AMOUNT.—For purposes of subparagraph (A)(ii)(I), the minimum tax offset amount is an amount equal to—

''(i) in the case of a taxpayer not described in clause (ii), the lesser of—

''(I) 25 percent of the tentative minimum tax for the taxable year, or

''(II) $20,000, or

''(ii) in the case of a C corporation other than a closely held C corporation (as defined in section 469(j)(1)), 5 percent of the tentative minimum tax for the taxable year.

''(C) REHABILITATION INVESTMENT TAX CREDIT.—For purposes of this paragraph, the term 'regular investment tax credit' means the portion of the credit under subsection (a) which is attributable to the credit determined under section 47.''.

(b) CONFORMING AMENDMENT.—Section 38(d) of the Internal Revenue Code of 1986 (relating to components of investment credit) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR REHABILITATION CREDIT.—Notwithstanding paragraphs (1) and (2), the rehabilitation investment tax credit (as defined in subsection (c)(2)(C)) shall be treated as used last.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 203. COMMERCIAL INDUSTRIAL DEVELOPMENT BONDS.

(a) FACILITY BONDS.—

(1) IN GENERAL.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting a comma, and by adding at the end the following new paragraphs:

''(13) sports facilities,

''(14) convention or trade show facilities,

''(15) freestanding parking facilities,

''(16) air or water pollution control facilities, or

''(17) industrial parks.''.

(2) INDUSTRIAL PARKS DEFINED.—Section 142 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(k) INDUSTRIAL PARKS.—A facility shall be treated as described in subsection (a)(17) only if all of the property to be financed by the net proceeds of the issue—

''(1) is—

''(A) land, and

''(B) water, sewage, drainage, or similar facilities, or transportation, power, or communication facilities incidental to the use of such land as an industrial park, and

''(2) is not structures or buildings (other than with respect to facilities described in paragraph (1)(B)).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 147(c) of the Internal Revenue Code of 1986 (relating to limitation on use for land acquisition) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR INDUSTRIAL PARKS.—In the case of a bond described in section 142(a)(17), paragraph (1)(A) shall be applied by substituting '50 percent' for '25 percent'.''.

(B) Section 147(e) of such Code (relating to no portion of bonds may be issued for skyboxes, airplanes, gambling establishments, etc.) is amended by striking ''A private activity bond'' and inserting ''Except in the case of a bond described in section 142(a)(13), a private activity bond''.

(b) SMALL ISSUE BONDS.—Section 144(a)(12) of the Internal Revenue Code of 1986 (relating to termination of qualified small issue bonds) is amended—

(1) by striking ''any bond'' in subparagraph (A)(i) and inserting ''any bond described in subparagraph (B)'',

(2) by striking ''a bond'' in subparagraph (A)(ii) and inserting ''a bond described in subparagraph (B)'', and

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

''(B) BONDS FOR FARMING PURPOSES.—A bond is described in this subparagraph if it is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any land or property not in accordance with section 147(c)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1996.

SEC. 204. INCREASE IN AMOUNT OF QUALIFIED SMALL ISSUE BONDS PERMITTED FOR FACILITIES TO BE USED BY RELATED PRINCIPAL USERS.

(a) IN GENERAL.—Clause (i) of section 144(a)(4)(A) of the Internal Revenue Code of 1986 (relating to $10,000,000 limit in certain cases) is amended by striking ''$10,000,000'' and inserting ''$50,000,000''.

(b) CLERICAL AMENDMENT.—The heading of paragraph (4) of section 144(a) of the Internal Revenue Code of 1986 is amended by striking ''$10,000,000'' and inserting ''$50,000,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) obligations issued after the date of the enactment of this Act, and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

SEC. 205. SIMPLIFICATION OF ARBITRAGE INTEREST REBATE WAIVER.

(a) IN GENERAL.—Clause (ii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) is amended to read as follows:

''(ii) SPENDING REQUIREMENT.—The spending requirement of this clause is met if 100 percent of the available construction proceeds of the construction issue are spent for the governmental purposes of the issue within the 3-year period beginning on the date the bonds are issued.''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception for reasonable retainage) is repealed.

(2) Subclause (II) of section 148(f)(4)(C)(vi) of such Code (relating to available construction proceeds) is amended by striking ''2-year period'' and inserting ''3-year period''.

(3) Subclause (I) of section 148(f)(4)(C)(vii) of such Code (relating to election to pay penalty in lieu of rebate) is amended by striking '', with respect to each 6-month period after the date the bonds were issued,'' and '', as of the close of such 6-month period,''.

(4) Clause (viii) of section 148(f)(4)(C) of such Code (relating to election to terminate 1½ percent penalty) is amended by striking ''to any 6-month period'' in the matter preceding subclause (I).

(5) Clause (ii) of section 148(c)(2)(D) of such Code (relating to bonds used to provide construction financing) is amended by striking ''2 years'' and inserting ''3 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 206. QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS PARTIALLY EXEMPT FROM STATE VOLUME CAP.

(a) IN GENERAL.—Section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by inserting after paragraph (4) the following:

''(5) 75 percent of any exempt facility bond issued as part of an issue described in section 142(a)(7) (relating to qualified residential rental projects).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 207. EXPANSION OF QUALIFIED WAGES SUBJECT TO WORK OPPORTUNITY CREDIT.

(a) INCREASE IN PERCENTAGE.—Section 51(a) of the Internal Revenue Code of 1986 (relating to determination of amount) is amended by striking ''35 percent'' and inserting ''50 percent''.

(b) FIRST 3 YEARS OF WAGES SUBJECT TO CREDIT.—Section 51 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended—

(1) in subsections (a) and (b)(3), by striking ''first-year''; and

(2) in subsection (b)—

(A) by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year—

''(A) with respect to an individual who is a member of a targeted group, and

''(B) attributable to service rendered by such individual during the 3-year period beginning with the day the individual begins work for the employer.''; and

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

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 208. EXCLUSION FOR CAPITAL GAINS ON CERTAIN INVESTMENTS WITHIN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Part II of subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 1395. EXCLUSION FOR GAIN FROM ZONE OR COMMUNITY INVESTMENTS.

''(a) GENERAL RULE.—In the case of a taxpayer, gross income shall not include any qualified capital gain recognized on the sale or exchange of a qualified zone asset held for more than 3 years.

''(b) QUALIFIED ZONE ASSET.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified zone asset' means, with respect to any qualified small business—

''(A) any qualified zone stock,

''(B) any qualified zone property, and

''(C) any qualified zone partnership interest.

''(2) QUALIFIED SMALL BUSINESS.—

''(A) IN GENERAL.—The term 'qualified small business' means any entity or proprietorship the aggregate gross assets (within the meaning of section 1202(d)(2)) of which do not exceed $50,000,000.

''(B) APPLICATION OF RULES.—In determining if an entity or proprietorship is a qualified small business, rules similar to the rules of subsections (a) and (b) of section 52 shall apply.

''(3) QUALIFIED ZONE STOCK.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified zone stock' means any stock in a domestic corporation if—

''(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

''(ii) as of the time such stock was issued, such corporation was an enterprise zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business), and

''(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

''(B) REDEMPTIONS.—The term 'qualified zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

''(4) QUALIFIED ZONE PROPERTY.—

''(A) IN GENERAL.—The term 'qualified zone property' has the meaning given to such term by section 1397C, except that references to empowerment zones shall be treated as including references to enterprise communities.

''(5) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

''(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash,

''(B) as of the time such interest was acquired, such partnership was an enterprise zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business), and

''(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

''(6) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified zone asset' includes any property which would be a qualified zone asset but for paragraph (3)(A)(i), section 1397(a)(1)(B), or paragraph (5)(A) in the hands of the taxpayer if such property was a qualified zone asset in the hands of any prior holder.

''(7) 10-YEAR SAFE HARBOR.—If any property ceases to be a qualified zone asset by reason of paragraph (3)(A)(iii), section 1397(a)(1)(C), or paragraph (5)(C) after the 10-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

''(8) TREATMENT OF ZONE OR COMMUNITY TERMINATIONS.—The termination of any designation of an area as an empowerment zone or enterprise community shall be disregarded for purposes of determining whether any property is a qualified zone asset.

''(c) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ENTERPRISE ZONE BUSINESS.—For purposes of this section, the term 'enterprise zone business' has the meaning given to such term by section 1394(b)(3).''.

''(2) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any long-term capital gain.

''(3) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

''(4) GAIN ATTRIBUTABLE TO PERIODS AFTER TERMINATION OF ZONE OR COMMUNITY DESIGNATION NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods after the termination of any designation of an area as an empowerment zone or enterprise community.

''(d) TREATMENT OF PASS-THRU ENTITIES.—

''(1) SALES AND EXCHANGES.—Gain on the sale or exchange of an interest in a pass-thru entity which is a qualified small business held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 3 years shall be treated as gain described in subsection (a) to the extent such gain is attributable to amounts which would be qualified capital gain on qualified zone assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 3 years and throughout the period the taxpayer held such interest. A rule similar to the rule of paragraph (2)(B) shall apply for purposes of the preceding sentence.

''(2) DISTRIBUTIONS.—

''(A) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity (other than an entity which was an enterprise zone business during substantially all of the period the taxpayer held the interest to which such inclusion relates) shall be treated as gain described in subsection (a) if such amount meets the requirements of subparagraph (B).

''(B) REQUIREMENTS.—An amount meets the requirements of this subparagraph if—

''(i) such amount is attributable to gain on the sale or exchange by the pass-thru entity of property which is a qualified zone asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

''(ii) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such asset and at all times thereafter before the disposition of such asset by such pass-thru entity.

''(C) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Subparagraph (A) shall not apply to any amount to the extent such amount exceeds the amount to which subparagraph (A) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified zone asset was acquired.

''(3) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

''(A) any partnership,

''(B) any S corporation,

''(C) any regulated investment company, and

''(D) any common trust fund.

''(e) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE QUALIFIED ZONE BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S Corporation, which was an enterprise zone business during substantially all of the period the taxpayer held such interest or stock) is an enterprise zone business, the amount of qualified capital gain shall be determined without regard to—

''(1) any intangible, and any land, which is not an integral part of any qualified business (as defined in section 1397B(d)), and

''(2) gain attributable to periods before the designation of an area as an empowerment zone or enterprise community.

''(f) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

''(1) IN GENERAL.—In the case of a transfer of a qualified zone asset to which this subsection applies, the transferee shall be treated as—

''(A) having acquired such asset in the same manner as the transferor, and

''(B) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

''(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

''(A) by gift,

''(B) at death, or

''(C) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of subsection (d)(2) are met at the time of the transfer (without regard to the 3-year holding requirement).

''(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 172(d)(2)(B) of the Internal Revenue Code of 1986 (relating to modifications with respect to net operating loss deduction) is amended by striking ''section 1202'' and inserting ''sections 1202 and 1395B''.

(2) Section 642(c)(4) of such Code (relating to adjustments) is amended by inserting ''or 1395B(a)'' after ''section 1202(a)'' and by inserting ''or 1395B'' after ''section 1202''.

(3) Section 643(a)(3) of such Code (defining distributable net income) is amended by striking ''section 1202'' and inserting ''sections 1202 and 1395B''.

(4) Section 691(c)(4) of such Code (relating to coordination with capital gain provisions) is amended by striking ''1202, and 1211'' and inserting ''1202, 1395B, and 1211''.

(5) The second sentence of section 871(a)(2) of such Code (relating to capital gains of aliens present in the United States 183 days or more) is amended by inserting ''or 1395B'' after ''section 1202''.

(6) Part II of subchapter U of chapter 1 of such Code is amended to read as follows:

''PART II—INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.''.

(7) The table of parts of subchapter U of chapter 1 of such Code is amended to read as follows:

''Part II. Incentives for empowerment zones and enterprise communities.''.

(8) The table of sections of part II of subchapter U of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 1395. Exclusion for gain from zone or community investments.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

SEC. 301. BLOCK GRANT STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study regarding—

(A) the feasibility of consolidating existing public and low-income housing programs under the United States Housing Act of 1937 into a comprehensive block grant system of Federal aid that—

(i) provides assistance on an annual basis;

(ii) maximizes funding certainty and flexibility; and

(iii) minimizes paperwork and delay; and

(B) the possibility of administering future public and low-income housing programs under the United States Housing Act of 1937 in accordance with such a block grant system.

(2) PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION.—In conducting the study described in paragraph (1), the Secretary of Housing and Urban Development shall consider data from and assessments of the demonstration program conducted under section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134, 110 Stat. 1321).

(b) REPORT TO COMPTROLLER GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Comptroller General of the United States a report that includes—

(1) the results of the study conducted under subsection (a); and

(2) any recommendations for legislation.

(c) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report that includes—

(1) an analysis of the report submitted under subsection (b); and

(2) any recommendations for legislation.

SEC. 302. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

Section 18(b) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)) is amended—

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

(2) in paragraph (2), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(3) the public housing agency develops a plan that provides, subject to the approval of both the unit of general local government in which the property on which the units to be demolished or disposed of are located and the local public housing agency, for—

''(A) the eventual reconstruction of units on the same property on which the units to be demolished or disposed of are located; and

''(B) the ultimate relocation of displaced tenants to that property.''.

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

SEC. 401. RELEASE FROM LIABILITY OF PERSONS THAT FULFILL REQUIREMENTS OF STATE AND LOCAL LAW.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 2) is amended by adding at the end the following:

''(o) RELEASE FROM LIABILITY OF PERSONS THAT FULFILL REQUIREMENTS OF STATE AND LOCAL LAW.—

''(1) IN GENERAL.—Neither the President nor any other person may bring an administrative or judicial enforcement action under this Act with respect to a facility located in an urban area that is not listed or proposed for listing on the National Priorities List against a person that has fulfilled all requirements applicable to the person under State and local law to conduct response action at the facility, as evidenced by a release from liability issued by authorized State and

local officials, to the extent that the administrative or judicial action would seek to require response action that is within the scope of the response action conducted in accordance with State and local law.

''(2) URBAN AREA DEFINED.—For purposes of paragraph (1), the term 'urban area' has the meaning given that term under section 1393(a)(3) of the Internal Revenue Code of 1986.''.

SEC. 402. BROWNFIELD PROGRAM.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

''SEC. 127. BROWNFIELD PROGRAM.

''(a) DEFINITION OF BROWNFIELD FACILITY.—In this section, the term 'brownfield facility' means—

''(1) a parcel of land that contains an abandoned, idled, or underused commercial or industrial facility, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance; but

''(2) does not include—

''(A) a facility that is the subject of a removal or planned removal under this title;

''(B) a facility that is listed or has been proposed for listing on the National Priorities List or that has been removed from the National Priorities List;

''(C) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) at the time at which an application for a grant or loan concerning the facility is submitted under this section;

''(D) a land disposal unit with respect to which—

''(i) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

''(ii) closure requirements have been specified in a closure plan or permit;

''(E) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under this Act, 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 Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(F) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

''(G) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

''(b) MAINTENANCE OF BROWNFIELD PROGRAM.—The Administrator shall maintain the brownfield program established by the Administrator before the date of enactment of this section.

''(c) ELEMENTS OF PROGRAM.—In conducting the brownfield program, the Administrator may—

''(1) expend funds to identify and examine idle or underused industrial and commercial facilities for inclusion in the brownfield program; and

''(2) provide grants to State and local governments to clean up brownfields and return brownfields to productive use.

''(d) MAXIMUM GRANT AMOUNT.—A grant under subsection (c) shall not exceed $200,000 with respect to any brownfield facility.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Hazardous Substance Superfund to carry out this section—

''(1) $50,000,000 for fiscal year 1998;

''(2) $55,000,000 for fiscal year 1999; and

''(3) $60,000,000 for fiscal year 2000.''.

By Mr. SPECTER:

S. 24. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

HEALTH CARE ASSURANCE ACT OF 1997

Mr. SPECTER. Mr. President, the start of the 105th Congress gives those of us in the Senate and the House a new opportunity to make a real difference in the lives of the American people. It is a chance for us to learn from the past concerning how to best respond to the challenges that are before us and forge important alliances to enable us to pass legislation that is important to the American people. One of our first priorities must be additional reforms of our Nation's health care system.

In the 104th Congress, I was pleased to cosponsor the Health Insurance Portability and Accountability Act of 1996, better known as the Kassebaum-Kennedy bill (S. 1028). There is no question that Kassebaum-Kennedy made significant steps forward in addressing troubling issues in health care. The bill's incremental approach to health care reform is what allowed it to generate consensus support in the Senate; we knew that it did not address every single problem in the health care delivery system, but it would make life better for millions of American men, women, and children.

There is much more that needs to be done. Accordingly, today I am introducing the Health Care Assurance Act of 1997, which, if enacted, will take us further down the path of incremental reforms started by Kassebaum-Kennedy. It is my firm belief that the best approach to addressing our Nation's health care problems is to enact reforms that improve upon our current market based health care system without completely overhauling our current system. My bill is intended to initiate and stimulate discussion in order to move the health care reform debate forward. I welcome any suggestions my colleagues may have concerning how the bill can be improved, as long as such suggestions are consistent with the incremental approach to reform that has proven to be the only way to obtain successful health care reform.

I want to note at the outset that through a State-run voucher system, my legislation would address health care coverage for the first time for the vast majority of the 10 million American children who lack health care insurance today. My proposal is compassionate and efficient and will preserve patient choice as its hallmark.

THE NEED FOR A BIPARTISAN APPROACH

Given the importance of succeeding in enacting this type of legislation, it is worth reviewing recent history. In particular, the debate over President Clinton's Health Security Act during the 103d Congress is replete with lessons concerning the pitfalls and obstacles that inevitably lead to legislative failure. Several times during the 103d Congress, I spoke on the Senate floor to address what seemed obvious to me to be the wisest course—to pass incremental health care reforms with which we could all agree. Unfortunately, what seemed obvious to me, based on comments and suggestions by a majority of Senators who favored a moderate approach, was not obvious at the time to the Senate's Democratic leadership.

This failure to understand the merits of an incremental approach was demonstrated during my attempts in April 1993 to offer a health care reform amendment based on the text of S. 631, an incremental reform bill I had introduced earlier in the session incorporating moderate, consensus principles. First, I attempted to offer the bill as an amendment to debt ceiling legislation. Subsequently, I was informed that the consideration of this bill would be structured in a way that my offering an amendment would be impossible. Therefore, I prepared to offer my health care bill as an amendment to the fiscal year 1993 emergency supplemental appropriations bill. The majority leader, Senator Mitchell, and Senator BYRD worked together to ensure that I could not offer my amendment by keeping the Senate in a quorum call, a parliamentary tactic used to delay and obstruct. I was unable to obtain unanimous consent to end the quorum call, and thus could not proceed with my amendment.

Three years later, well after the behemoth Clinton health care reform bill was derailed, the Senate once again endured a lengthy political battle concerning the Kassebaum-Kennedy bill. We achieved a breakthrough in August 1996, when enough Senators sensed the growing frustration of the American people and finally passed health care insurance market reforms such as increased portability. I would note that the final version of the Health Insurance Portability and Accountability Act of 1996 contained many elements which were in S. 18, the incremental health care reform bill I had introduced when the 104th session of Congress began on January 4, 1995.

In retrospect, I urge my colleagues to note a most important fact—the Kassebaum-Kennedy bill was enacted only after the most liberal Democrats abandoned their hopes for passing a nationalized, big government health care scheme, and the most conservative Republicans abandoned their position that access to health care is really not a major problem in the United States demanding Federal action.

Although we succeeded in enacting incremental insurance market reforms,